

AGENDA

DEVELOPMENT DETERMINATION PANEL MEETING

Notice is hereby given that a Meeting of the Development Determination Panel will be held in the Walamai Room, Civic Centre, Dee Why

WEDNESDAY 8 AUGUST 2018



Ashleigh Sherry
Manager Business System and Administration

**Agenda for a Meeting of the Development Determination Panel
to be held on Wednesday 8 August 2018
in the Walamai Room, Civic Centre, Dee Why**

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2.0 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 MINUTES OF DEVELOPMENT DETERMINATION PANEL HELD 25 JULY 2018Error! Bookmark not defined.

RECOMMENDATION

That the Panel note that the Minutes of the Development Determination Panel held 25 July 2018 were approved by all Panel Members and have been posted on Council's website.

3.0 DEVELOPMENT DETERMINATION PANEL REPORTS

ITEM 3.1 **DA2018/0128 - 65 BOWER STREET, MANLY - DEMOLITION AND CONSTRUCTION A NEW DWELLING HOUSE**

REPORTING MANAGER **Anna Willaims**

TRIM FILE REF **2018/479217**

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

PURPOSE

To refer the attached application for determination as required under adopted delegations of the Charter.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority grant Development Consent to DA2018/0128 for Demolition and construction a new dwelling house on land at Lot 68 DP 8075, 65 Bower Street, MANLY, subject to the conditions outlined in the Assessment Report.



REPORT TO DEVELOPMENT DETERMINATION PANEL

Meeting held on 08 August 2018

65 Bower Street Manly - Demolition and construction a new dwelling house

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/0128
Responsible Officer:	Thomas Prosser
Land to be developed (Address):	Lot 68 DP 8075, 65 Bower Street MANLY NSW 2095
Proposed Development:	Demolition and construction a new dwelling house
Zoning:	Manly LEP2013 - Land zoned E3 Environmental Management
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Development Determination Panel
Land and Environment Court Action:	No
Owner:	Trustees Roman Catholic Church Archdiocese Sydney Mark Philip Arnold
Applicant:	Campbell Architecture
Application lodged:	31/01/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	19/06/2018 to 05/07/2018
Advertised:	Not Advertised
Submissions Received:	12
Recommendation:	Approval
Estimated Cost of Works:	\$ 1,800,900.00

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:



- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards

Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing

Manly Development Control Plan - 3.4.2 Privacy and Security

Manly Development Control Plan - 3.4.3 Maintenance of Views

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

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

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

SITE DESCRIPTION

Property Description:	Lot 68 DP 8075 , 65 Bower Street MANLY NSW 2095
Detailed Site Description:	<p>The subject site consists of an allotment located on the northern side of Montpelier Street and southern side of Bower Street.</p> <p>The site is irregular in shape with a frontage of 15.41m along both Montpelier Street and Bower Street, with a depth of approximately 46m. The site has a surveyed area of 699.1m².</p> <p>The site is located within the E3 Environment Management zone and accommodates a tennis court, cabana, swimming pool and associated structures on site.</p> <p>The site is relatively flat at the tennis court level, having a slight slope of 0.15m from the middle of the tennis court to the Grate (RL34.51) at the northern end of the tennis court. There is slope from the rear of the tennis court to the front boundary to an existing retaining wall and a further slope down to the road reserve. The slope from the middle of the tennis court to the bottom of the retaining wall at the north-eastern corner is 1.23m. The slope from the middle of</p>

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the tennis court to the road reserve below the retaining wall is 3.92m.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by two to three storey dwellings on both sides of Bower Street and Montpelier Place.

Map:



SITE HISTORY

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

- On a Bower Street building card the following approval was found: "217-79- No. 65- Swimming pool, tennis court & pavilion (for 63)"

217-79	No. 65	Swimming pool, tennis court & pavilion (For 63)	Dutch
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PROPOSED DEVELOPMENT IN DETAIL

The proposal is for demolition of the existing structures and construction of a new dwelling house including the following:

Under floor with:

- Plant
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- Undercroft
- Ground floor with:
- Kitchen and sitting room
- Dining room
- Media room
- Laundry
- Powder room

First floor with:

- 6 Bedrooms
- 3 Bathrooms
- Robe and ensuite area

External area with

- Double garage at Montpellier Place
- Bin Storage at Montpellier Place
- Drying court
- Landscaping
- Pool
- Ground floor terrace with roof over western section
- Privacy screens
- Balcony
- Planter boxes
- New fence to eastern boundary behind garage

Note: The above is a reflection of the amended plans that were submitted on 12 June 2018. These plans were re-notified in accordance with the Manly DCP, 2013. The amendments included lowering of the roof pitch and lowering of the ground floor, resulting in a reduced highest ridge point of RL42.31 to RL41.66.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any	None applicable.

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Section 4.15 Matters for Consideration'	Comments
draft environmental planning instrument	
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built	<p>(i) Environmental Impact</p> <p>The environmental impacts of the proposed development on the natural and built environment are addressed under</p>



Section 4.15 Matters for Consideration'	Comments
environment and social and economic impacts in the locality	<p>the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 12 submission/s from:

Name:	Address:
Mrs Nancy Elizabeth Christie	4/98-100 Bower Street MANLY NSW 2095
Ms Sarah Carracher	11 Montpelier Place MANLY NSW 2095
Mr Craig Allan Carracher	27 Margaret Street FAIRLIGHT NSW 2094
Mr Philip Perrie	PO Box 225 ROSE BAY NSW 2029
Mr Robert Emmett Morley	9 Montpelier Place MANLY NSW 2095
Ms Ingeborg Maria Speckmann	67 Bower Street MANLY NSW 2095
Mr Peter Craig Priestley	69 Bower Street MANLY NSW 2095
BBF Planners	8 Narabang Way BELROSE NSW 2085
Mr Olivier Chretien Mrs Marie Chretien	67 Bower Street MANLY NSW 2095
Mrs Sarah Jane Carracher	11 Montpelier Place MANLY NSW 2095
Urban Strategies	Po Box 3036 REDFERN NSW NSW 2016



Name:	Address:
Mrs Christine Gail Kelleher	6/25 Marshall Street MANLY NSW 2095

Note: The above addresses do not all relate to the addresses the submissions are being made on behalf. It is noted that the 4 submissions that raise view loss issues opposite to the site are:

- 9 Montpelier Place
- 10 Montpelier Place
- 11 Montpelier Place
- 12 Montpelier Place

The table above includes multiple submissions registered on behalf of the same dwelling. The number of submissions considered in accordance with the Manly DCP is 9.

The following issues were raised in the submissions and each have been addressed below:

- Impact of traffic and trucks during construction and costs associated with repair of damage. Entry, access and egress issues at Montpelier place.
- Interpretation of ground level and claim building height should be measured from lower, 'natural' level.
- Impact on Streetscape (Bower and Montpelier)
- Impact on views/View Sharing.
- Non-compliance with FSR and impact of bulk. Non-compliance with number of storeys.
- Roof design not sympathetic (including impact on views)
- Impact of landscaping/trees on views
- Privacy to neighbouring dwellings
- Privacy to dwelling opposite (including setback to terrace at west)
- Clarification west elevation wall/fence. Objection to lowering of wall due to privacy impact.
- Shadowing impacts (including on neighbouring courtyard)
- Height of boundary fence and pathway at eastern boundary
- Access to garage taking away off street parking spaces. Clarification required on where driveway proposed.
- Potential access to 'roof of terrace'
- Elevation of lawn level shown on west elevation
- Excavations

The matters raised within the submissions are addressed as follows:

- Impact of traffic and trucks during construction and costs associated with repair of damage. Entry, access and egress issues at Montpelier place.
Comment:
Conditions have been imposed to ensure appropriate measures are considered during construction such as site access.
- Interpretation of ground level and claim building height should be measured from lower, 'natural' level.
Comment:
The proposed height of building has been measured in accordance with the definition with for 'building height' which takes into account the existing site levels on the survey provided. The reasonableness of the building height in regards to the surrounding topography has also been



considered under the assessment of views in this report. This found the proposed height to be consistent with the prevailing height pattern and at a level that would also be compliant when surrounding site topographical points are considered.

- **Impact on Streetscape (Bower and Montpelier)**
Comment:
An assessment of the bulk, scale and impact of the garage has bound the proposal to be reasonable in terms of impact on each streetscape.

- **Impact on views/View Sharing**
Comment:
An assessment of views under Part 3 of the Manly DCP and with reference to the court established planning principle, has found the impact on views and provision of view sharing to be reasonable.

- **Non-compliance with FSR and impact of bulk. Non-compliance with number of storeys.**
Comment:
An assessment of the non-compliance with FSR and bulk under the Manly LEP 2013 (including the consideration of a Clause 4.6 application to vary the standard) has found the proposal to be reasonable. An assessment of the numerical non-compliance with the number of storeys under the Manly DCP 2013 has also found the proposal to be reasonable.

- **Roof design not sympathetic (including impact on views)**
Comment:
The amended design to provide a lower roof level provided an adequate outcome in terms of providing reasonable views as discussed under the section for views in this report.

- **Impact of landscaping/trees on views**
Comment:
A condition has been provided to limit the height of trees to ensure there would be no unreasonable impact on views.

- **Privacy to neighbouring dwellings**
Comment:
Conditions have been imposed to ensure appropriate minimisation of privacy. Along with this, an assessment is provided in this report that considers the privacy outcome to be reasonable (subject to these conditions).

- **Privacy to dwelling opposite (including setback to terrace at west)**
Comment: As a result of the compliant setbacks and adequate physical separation, the proposal will reasonable minimise loss of privacy to the opposite dwellings.

- **Clarification west elevation wall/fence. Objection to lowering of wall due to privacy impact.**
Comment:
A condition has been imposed to provide a wall that is consistent with the south elevation plan (not lowered).
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- Shadowing impacts (including on neighbouring courtyard)
Comment:
An assessment of shadowing impacts has been discussed under part 3 of the Manly DCP in this report and found the proposal to be reasonable.
- Height of boundary fence and pathway at eastern boundary
Comment:
The fence and pathway would not have any unreasonable impact on amenity and would reasonably minimise visual impact.
- Access to garage taking away off street parking spaces. Clarification required on where driveway proposed.
Comment:
The proposal provides a compliant number of car parking spaces on site and consent has been provided by the owner of the property and road reserve at Montpelier Place to lodge the application. The driveway proposed is shown in the site plan. A search of Council records has found no existing approved car parking spaces in this driveway area.
- Potential access to 'roof of terrace'
Comment:
A condition has been imposed to ensure there is no access to this area.
- Elevation of lawn level shown on west elevation
Comment:
A condition has been imposed to ensure the lawn level is consistent with the RL34.99 as noted on 'plan level 1'.
- Excavations
Comment:
The geotechnical report has been provided as a reference document so that recommendations will be followed.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The landscape proposal is generally acceptable. <u>Assessing officer comment</u> A condition was required for the planting of 10 metre trees. This
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Internal Referral Body	Comments
	condition was amended to ensure trees required would not have an unreasonable impact on views.
NECC (Bushland and Biodiversity)	The proposed development will result in a net increase in the landscaping at the site, which will provide a marginal increase in habitat for the endangered population of Long-nosed Bandicoots of North Head. Mitigation measures are required to be implemented during construction to avoid injury or death to individual bandicoots which may seek to shelter within stockpiles onsite. The landscape plan includes a Priority weed (<i>Optunia stricta</i>) which must be replaced with a suitable native alternative. It is considered that the proposal is unlikely to impact on threatened species/populations, subject to recommended conditions of consent.
NECC (Coast and Catchments)	The DA is supported with conditions. The following documents were reviewed: Statement of Environmental Effects Geotechnical Report Plans - Master Set Plans - Stormwater
NECC (Development Engineering)	Development Engineer has no objection to the application subject to the following conditions of consent.
Road Reserve	No impact on existing road assets. Development Engineering to ensure pipe connection to kerb is recessed into rock face of Bower Street road cutting, and stone pitched to hide any visible pipework.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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

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



Nil

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	7.15m	N/A	Yes.
Floor Space Ratio Site area: 699.1m ²	FSR: 0.45:1 (314.595m ²)	FSR: 0.49:1 (343m ²)	9%	No, see comments under Clause 4.6.

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	No
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.5 Terrestrial biodiversity	Yes
6.12 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Requirement:	0.45:1 (314.595m ²)
Proposed:	0.49:1 (343m ²)
Is the planning control in question a development standard?	YES
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical.
If numerical enter a % variation to requirement	9%

The proposal must satisfy the objectives of 4.4 Floor Space Ratios, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the MLEP 2013. The assessment is detailed as follows:

Is the planning control in question a development standard?

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The prescribed Floor space ratio limitation pursuant to Clause 4.4 of the MLEP 2013 is a development standard.

What are the underlying objectives of the development standard?

The underlying objectives of the standard, pursuant to Clause 4.4 – 'Floor space ratio' of the MLEP 2013 are:

(1) The objectives of this clause are as follows:

a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,

Comment:

The proposed development is for construction of a new dwelling house in a residential area that has presentations to two different streetscapes, being Bower Street and Montpelier Street. At both frontages and in close proximity, the bulk presented by the residential dwellings generally steps down from east to west. The proposed development would continue this pattern as the proposed highest ridge point is lower than the dwelling to the east (63 Bower Street) and higher than the dwelling to the west (67 Bower Street). The proposal would also present as a compliant two storey envelope from Montpelier Street and the three storey presentation of bulk at Bower Street will be sufficiently minimised through the partly excavated bottom level and the buffer provided by the raised landscape reserve to the front of the site at Bower Street.

b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,

Comment:

In addition, the proposal provides for a 2-3 storey new dwelling that has a top storey setback from the ground floor to have the effect of providing compliant setbacks at each level. In addition, the open space and landscaped area are compliant with the controls in the Manly DCP to provide a control on bulk that would provide a reasonable outcome for access to views of surrounding features.

c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,

Comment:

The proposed compliant presentation of the dwelling within the Montpelier streetscape along with the adequate minimisation of bulk presentation in Bower Street provides a development that will maintain an appropriate visual relationship with the surrounding area. The provision of landscaping at the front and the rear of the dwelling to provide for a compliant total landscaped area (under the Manly DCP) will also ensure an appropriate visual relationship is provided between development and landscaping.

d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,

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Comment:

As a result of the compliant setbacks, compliant and consistent building height, compliant open space and compliant landscaped area, the proposal would sufficiently minimise environmental impacts and the use of the surrounding land. The impact on amenity for surrounding dwellings is also further assessed as being reasonable under Part 3 of the Manly DCP in this report.

e) to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.

Comment:

Not applicable.

What are the underlying objectives of the zone?

In assessing the developments the non-compliance, consideration must be given to its consistency with the underlying objectives of the E3 Environmental Management zone.

The underlying objectives of the E3 Environmental Management zone

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*

Comment:

The proposal provides a built form that is desirable in the streetscape and has compliant setbacks to ensure the spacing reasonably protects the values of the area.

- *To provide for a limited range of development that does not have an adverse effect on those values.*

Comment:

The proposed 2-3 storey dwelling is consistent with the type and bulk of development in the area so as to ensure the new development would not have an adverse effect on the values of the area.

- *To protect tree canopies and provide for low impact residential uses that does not dominate the natural scenic qualities of the foreshore.*

Comment:

The compliant height and reasonable control of bulk across the site ensures that the proposal would not dominate the scenic qualities of the foreshore.

- *To ensure that development does not negatively impact on nearby foreshores, significant geological features and bushland, including loss of natural vegetation*

Comment:

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The proposal is not directly adjacent to foreshore or bushland but is in close proximity. The compliant setbacks and reasonable presentation of the dwelling in the streetscape ensure that the proposal would not have a negative impact on the above features.

- *To encourage revegetation and rehabilitation of the immediate foreshore, where appropriate, and minimise the impact of hard surfaces and associated pollutants in stormwater runoff on the ecological characteristics of the locality, including water quality.*

Comment:

The proposal provides for a compliant total open space and compliant landscaped area under the Manly DCP. Along with the appropriate built form, this provides an appropriate outcome for ecological characteristics of the locality.

- *To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses*

Comment:

The proposal provides a height and bulk that is consistent with the surrounding area and fits in with the step down of the the nearby development to the west.

Is the variation to the development standard consistent with the objectives of Clause 4.6 of the MLEP 2013?

(1) The objectives of this clause are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development.

Comment:

In this circumstance, providing flexibility to the floor space ratio development standard is appropriate as the non-compliance does not lead to any unreasonable amenity impact and would be appropriate in the street context.

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Comment:

It is appropriate to allow flexibility in this circumstance as an addition of floor space can be made to the dwelling without having any unreasonable impact on amenity and the proposed development would be visually appropriate given the context of the site and topographical nature of the surroundings.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly



excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

The applicant has provided a Clause 4.6 application that includes the following statement regarding Part 3 of the clause:

"This clause 4.6 request demonstrates below that compliance with the development standard is unreasonable and unnecessary to achieve the objectives of the standard. The design of the dwelling house, with a lesser volume than that which is anticipated by the suite of controls applying to the land, satisfies the housing needs of the future residents of the building and represents sufficient environmental planning grounds to justify the variation that is sought.

Clause 4.6(4) of MLEP 2013 provides:

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Director-General has been obtained.

The matters in subclause (3) are addressed above. Each of the objectives of the floor space ratio control are addressed below:

(a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,

Comment: The building height and wall height are substantially below that which is permitted by MLEP 2013 and MDCP 2013. The proposal has a bulk and scale which is commensurate with the suite of controls applying to the land. The building has been architecturally designed to complement the streetscape and is sited in compliance with the setback controls applying to all boundaries. The desired future character is not defined in the planning controls but the proposal is consistent with the existing streetscape and with recent approvals, as demonstrated in the Table attached as Appendix C.

(b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,

Comment: The density of the development complies with the relevant controls in the MDCP 2013. AS discussed above, the bulk is commensurate with that envisaged by the suite of controls applying to the land. The proposal will not obscure any important landscape and townscape features beyond that which would be anticipated by the development of a 2-storey dwelling house on the site.



(c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,

Comment: Because the building is well below the maximum height permitted on the site and complies with the setback requirements it maintains an appropriate relationship with existing development in the street. Consistent with the decision of Roseth SC in Project Ventures Developments v Pittwater Council [2005] NSWLEC 191, it is my opinion that "most observers would not find the proposed building offensive, jarring or unsympathetic".

(d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,

Comment: The building has been designed to minimise impacts on adjoining land. Particular consideration has been given to addressing potential privacy impacts by orienting windows and decks to the front and rear of the site and providing privacy screens where needed. View sharing has been maintained as described in Part 6.1.5 of this Statement of Environmental Effects. Solar access to neighbours is maintained as required by Council controls and assessed in Part 6.1.3 of this Statement of

Environmental Effects. The proposal is consistent with the streetscape and has no negative impacts on the public domain.

(e) to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.

Comment: Not relevant.

Each of the objectives of the E3 Environmental Management zone are addressed below:

☐ To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.

Comment: The proposal includes measures to address stormwater run-off and potential erosion and sedimentation. It is connected to reticulated sewerage to manage pollution impacts. Impacts on local flora and fauna will be managed in accordance with the recommendations of the Biodiversity Impact Assessment prepared by Narla Environmental.

☐ To provide for a limited range of development that does not have an adverse effect on those values.

Comment: Managing the development in accordance with the documentation submitted with the development application and conditions of consent will achieve this objective.

☐ To protect tree canopies and provide for low impact residential uses that does not dominate the natural scenic qualities of the foreshore.

Comment: The proposal will enhance the tree canopy in accordance with the landscape plan prepared by Myles Baldwin. Note, however, that trees have been chosen to minimise impacts on views across the site.

☐ To ensure that development does not negatively impact on nearby foreshores, significant geological features and bushland, including loss of natural vegetation.

Comment: The proposal is separated from foreshores, geological features and bushland by sufficient distance to ensure there is no impact.

☐ To encourage revegetation and rehabilitation of the immediate foreshore, where appropriate, and minimise the impact of hard surfaces and associated pollutants in stormwater runoff on the ecological characteristics of the locality, including water quality.

Comment: The site is not located on the immediate foreshore. Measures are proposed to control stormwater runoff.



☐ To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses.

Comment: As discussed above, the height of the building is substantially less than that which is anticipated under the relevant planning controls and the bulk is consistent with the suite of controls applying to the land. It is understood that Council can assume the concurrence of the Director-General with regards to this clause 4.6 variation.

In summary, the proposal satisfies all of the requirements of clause 4.6 of MLEP 2013 and exception to the development standard is reasonable and appropriate in the circumstances of the case."

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

Comment:

The applicants written request has adequately addressed the matters required to be demonstrated by subclause 3.

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Comment:

For reasons detailed above, the proposal is considered to be consistent with the objectives of the E3 Environmental Management zone in the MLEP 2013.

(b) the concurrence of the Director-General has been obtained

Comment:

Planning Circular PS 17-006 dated 15 December 2017, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument where the variation to a numerical standard is not greater than 10%. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Floor space ratio Development Standard is assumed

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 699.1m ²	Requirement	Proposed	% Variation*	Complies
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4.1.2.1 Wall Height	East: 6.5m	6m	N/A	Yes.
	West: 6.5m	6m	N/A	Yes.
4.1.2.2 Number of Storeys	2	3 (2 storeys and basement plant)	N/A	No, see comments.
4.1.2.3 Roof Height	Height: 2.5m	1.15m	N/A	Yes.
	Pitch: maximum 35 degrees	19 degrees	N/A	Yes.
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	Montpelier Street (garage): consistent with prevailing setback Bower Street: consistent with prevailing setback	N/A	Yes.
4.1.4.2 Side Setbacks	East Ground Floor: 1m (based on wall height) East First Floor- 2m (based on wall height)	Ground Floor: 1m First Floor: 2m	N/A	Yes.
	West Ground Floor: 1m (based on wall height) West First Floor- 2m (based on wall height)	Ground Floor: 1m First Floor: 2m	N/A	Yes.
	Windows: 3m	2-3m	N/A	No but fixed screens placed to windows that are 2 metres setback from boundary. See comments under privacy.
4.1.4.4 Rear Setbacks	8m	12m (to dwelling)	N/A	Yes.
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area (384.5m ²)	55.5% (388m ²)	N/A	Yes.
	Open space above ground 25% of total open space	7.7% (30m ²)		
4.1.5.2 Landscaped Area	Landscaped area 35% of open space	39.9% (155m ²)	N/A	Yes.
4.1.5.3 Private Open Space	18m	60sqm	N/A	Yes.
4.1.6.1 Parking Design and the Location of Garages,	Maximum 50% of frontage up to maximum 6.2m	7m	N/A	No, see comments.



Carports or Hardstand Areas				
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	0m	N/A	Yes.
	1m curtilage/1.5m water side/rear setback	1m/1.2m/front setback	N/A	No, see comments.
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces	N/A	Yes.

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	No	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	Yes	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	Yes
4.1.9 Swimming Pools, Spas and Water Features	No	Yes

Detailed Assessment

3.4.1 Sunlight Access and Overshadowing

Description of non-compliance

The proposal is not compliant with the control under Part 3.4.1.1 of the Manly DCP to "not eliminate more than one third of the existing sunlight accessing the private open space of adjacent properties from 9am to 3pm at the winter solstice (21 June)." In particular, the adjacent courtyard at 63 Bower Street is fully overshadowed at 3pm on winter solstice.

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

Objective 1) To provide equitable access to light and sunshine.

Comment:

The proposal provides for a design and bulk that is similar to the neighbouring properties, including front and rear building lines that are consistent with the neighbouring dwellings. Along with the compliant setbacks, compliant building height and lower ridge level to the neighbouring dwelling at 63 Bower Street, this provides an equitable outcome for maintaining sunlight to private open space areas to the neighbouring dwellings throughout the year.

It is also noted that existing sunlight to private open space at 63 Bower Street is maintained for the whole of the morning and for some afternoon hours during the worst case scenario of winter solstice. Given a fully compliant building envelope would have a similar outcome in terms of impact to private open space, this is an equitable outcome.

Objective 2) To allow adequate sunlight to penetrate:

- *private open spaces within the development site; and*
- *private open spaces and windows to the living spaces/ habitable rooms of both the development and the adjoining properties.*

Comment:

The appropriate siting with compliant setbacks to be consistent with the neighbouring building lines would allow for adequate sunlight to penetrate the private open space areas across the neighbouring sites. In particular, the north-south orientation of the lot and the compliant setbacks ensure that each neighbouring dwelling receives the same sunlight for approximately half the day, all year around.

Objective 3) To maximise the penetration of sunlight including mid-winter sunlight to the windows, living rooms and to principal outdoor areas by:

- *encouraging modulation of building bulk to facilitate sunlight penetration into the development site and adjacent properties; and*
- *maximising setbacks on the southern side of developments to encourage solar penetration into properties to the south.*

Comment:

The proposed lot has a north south orientation so that much of the overshadowing is directed toward the road at Montpelier place. The proposed dwelling maximises sunlight penetration to neighbouring properties by having a compliant rear (southern) setback and modulating the dwelling by setting the top floor back from the lower floors.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.



3.4.2 Privacy and Security

Description of non-compliance

The proposal is non-compliant with the control under Clause 4.1.4.2 of the Manly DCP which requires windows from habitable dwellings to be setback 3 metres from the side boundary.

The proposed development provides two windows that face the boundary and are setback 2 metres from the boundary.

Merit consideration:

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

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

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

Comment:

The proposal provides a dwelling that has no windows at the ground floor level and windows at the first floor level that are setback 2-3 metres. The windows that are non-compliant with the control for a setback of 3 metres are narrow and screened so as to be consistent with the requirements for window design under clause 3.4.2.1 of the Manly DCP. Subject to conditions, the usable area of proposed rear terrace and balcony will have an appropriate physical separation from the neighbouring dwellings by having a setback that is non-trafficable 2 metres at each boundary.

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

Comment:

The compliant setbacks and consistent building lines with neighbouring dwellings in conjunction with the proposed privacy screens, provide a development that has an appropriate compromise between privacy as well as access to light and air.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The proposed windows and entrances at the front and rear setback provide appropriate opportunity for awareness of neighbourhood security.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.



3.4.3 Maintenance of Views

NOTE: For photos and references to photos please see the attachment to this report.

Merit consideration:

With regard to the consideration of impact on views, the development is considered against the underlying Objectives of the Control as follows:

Objective 1) To provide for view sharing for both existing and proposed development and existing and future Manly residents.

Comment:

The proposed new dwelling is in an area that has a high vulnerability to view loss and a high opportunity for view gain, being located on a slope in close proximity to the ocean and Manly Beach. As such, the subject site and surrounding dwellings have views that include the ocean, Manly Beach and headlands to the north. The proposed dwelling reasonably provides opportunity for views at the site whilst also adequately minimising loss of views for surrounding dwellings by providing compliant setbacks, a compliant building height and a height that is consistent with surrounding dwellings, having regard to the topography of the surrounding land.

The proposed building height is measured from the "ground level (existing)" on site and this relates to the level of the approved tennis court. Although this is the case for the existing level on the subject site, it is also reasonable to consider the topography of the surrounding land as well as the pattern of maximum ridge heights for dwellings in the street. There is a 'natural surface' level of RL33.53 at 63 Bower Street which is in close proximity to the proposed dwelling. There is also a paving level of RL33.18 at 67 Bower Street which is in close proximity to the proposed dwelling. This difference in level is also consistent with the general step down in ridges, from 63 Bower Street to 67 Bower Street and then a further step to dwellings in the streetscape to the west.

Given the vulnerability of the views and the circumstance that the proposed dwelling is located in an area with variable levels, a reasonable building height is one that both considers these variable levels and fits in with the pattern of existing ridge heights. In this regard, a measurement taken from the lowest nearby site level (being at 67 Bower Street) of RL33.18 would allow for a compliant height (8.5m) level of RL41.68. The proposed height is RL41.66 which would therefore be compliant if the measurement for building height was taken at this lower level on the neighbouring site. The proposed maximum ridge height (RL41.66) is also a point in between the highest ridge levels of 63 Bower Street (RL41.81) and 67 Bower Street (RL41.07).

As a result, the proposal would maintain the existing pattern of ridges that step down in the street, have a compliant building height when surrounding levels are taken into consideration and also provide compliant setbacks. This provides a situation in which the proposal provides a built form that is reasonably controlled to allow for view sharing for both existing and proposed development.

Objective 2) To minimise disruption to views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from both private property and public places (including roads and footpaths).

An assessment of view loss from nearby development has been undertaken with reference to the Views Principle established by the NSW Land and Environment Court as follows:

9 Montpelier Place

The first step is the assessment of views to be affected. Water views are valued more highly than land



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

Comment:

The proposed dwelling would obscure ocean views and partially obscure views of the headland from the lower floor living area. The existing view of the headland is a whole view and the existing view of the ocean is made partial by existing development and vegetation.

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

Comment:

The views impacted are obtained from the front of the property and can be currently obtained from standing and sitting level. The proposal would result in loss of ocean views and part of the headland being obscured at standing and sitting level.

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

Comment:

As a result of the loss of water view and loss of headland view from the living area, the impact on views for the whole of the property is moderate, given the extensive water, headland and beach views maintained to the west of the proposed development. It is also noted that the impact on views from the upper level (Photo 2) is minor, given the lack of impact on headland and the extensive water views maintained.

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

Comment:

The proposal is compliant with the development standard for building height under the Manly LEP and setbacks under the Manly DCP. These two controls have such an impact on the views in this circumstance that compliance with the other controls (to have a fully compliant building envelope) would



result in a substantially similar impact on views. Additionally, a "more skilful design" to adequately reduce the impact on views would not provide the same development potential and the view sharing is reasonable.

10 Montpelier Place

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

Comment:

The proposed dwelling would obscure ocean and headland views from the lower floor living area. The existing view of the headland is a whole view and the existing view of the ocean is made partial by existing development and vegetation.

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

Comment:

The views impacted are both ocean and headland views and are obtained from the front of the property. These views are similarly impacted at both standing and sitting level.

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

Comment:

As a result of the loss of water view and loss of headland view from the living area, the impact on views for the whole of the property is moderate-severe. The extent of impact is reduced by water, headland and beach views maintained to the west of the proposed development. It is also noted that views from the upper level would have access to headland and water views that are more substantial.

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



Comment:

As a result of the lower level of 10 Montpelier Place than 11 and 12 Montpelier Place, and the location directly opposite the subject site, the vulnerability to view impact at this location is high. The view impact from the living room of this dwelling is the greatest of the dwellings opposite the site in Montpelier Place. As a result of the complying nature of the dwelling, the question of a more skilful design was considered. The reduction in height to a level that retains the whole headland with a reasonable water interface view, would require a substantial redesign. As such, a design that reduced the impact on views to this level could not provide the applicant with the same development potential and the view sharing is reasonable in accordance with the above step. It is noted that the original application provided no opportunity for part of the headland view to be retained from the living area and a letter was sent by Council to state this could not be supported. This was because of the opportunity that a more skilful design could provide the same development potential and reduce the impact on views. As the amendment provided opportunity for retention of the headland view at the living level, the next step to reduce amenity on views was opportunity for retention of the headland and water interface. At this living area level in 10 Montpelier Place, an adequate retention of headland and water interface could not be achieved without a design that unreasonably reduces the development potential, given the compliant nature of the dwelling.

11 Montpelier Place

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

Comment:

The proposed dwelling would obscure ocean views and partially obscure views of the headland from the lower floor living area. The existing view of the headland is relatively intact (as a whole view) but partially obstructed by existing development and vegetation. The existing view of the ocean is extensive but as a result of obstructions from existing development and vegetation, is partially obscured.

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

Comment:

The views impacted are obtained from the front of the property and can be currently obtained from standing and sitting level. The proposal would result in loss of some ocean views and loss of part of the headland, being more obscured with the lower the angle of view. This means that the view of the headland from a standing position is substantially retained but the sitting level view more greatly obstructs the headland.

The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be



meaningless. For example, it is unhelpful to say that the view loss is 20 percent if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

Comment:

As a result of the loss of water view and loss of headland view from the living area, the impact on views for the whole of the property is moderate. The extent of impact is reduced by the headland view retained from a standing position and the water views maintained either side of the proposed site. It is also noted that the impact on views from the upper level is minor, given the lack of impact on headland and the extensive water views maintained.

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

Comment:

The proposal is compliant with the development standard for building height under the Manly LEP and setbacks under the Manly DCP. These two controls have such an impact on the views in this circumstance that compliance with the other controls (to have a fully compliant building envelope) would result in a substantially similar impact on views. As a result of the opportunity that remains for access to water and headland views, any further adequate reduction to the impact on views would require a redesign that reduced development potential. As such, the substantially compliant nature of the dwelling and the associated design is reasonable in terms of view impact and view sharing.

12 Montpelier Place

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

Comment:

The proposed dwelling would obscure ocean views and partially obscure views of the headland from the lower floor living area, depending on the angle of view (more obscurement at sitting position than standing). The existing view of the headland is a whole view and the existing view of the ocean is made partial by existing development and vegetation.

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

Comment:

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The views impacted are obtained from the front of the property and can be currently obtained from standing and sitting level. The proposal would result in part of the headland being partially obscured at sitting level but majorly retained at standing level.

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

Comment:

As a result of the loss of water view and loss of headland view from the living area, the impact on views for the whole of the property is minor-moderate. The extent of impact is reduced extensive water, headland and beach views maintained to the west of the proposed development. It is also noted that the impact on views from the upper level is minor, given the lack of impact on headland and the extensive water views maintained.

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

Comment:

The proposal is compliant with the development standard for building height under the Manly LEP and setbacks under the Manly DCP. These two controls have such an impact on the views in this circumstance that compliance with the other controls (to have a fully compliant building envelope) would result in a substantially similar impact on views. Additionally, a "more skilful design" to adequately reduce the impact on views would not provide the same development potential and the view sharing is reasonable.

Views from Public places

The compliant setbacks, compliant height and ridge line consistent with the prevailing pattern in the street, provide a situation in which reasonable spacing is provided to maintain adequate access to views from public places.

Objective 3) To minimise loss of views, including accumulated view loss 'view creep' whilst recognising development may take place in accordance with the other provisions of this Plan.

Comment:

Given the consistency with the court established planning principle for views, compliance with relevant development controls and building height that is consistent with the character of the area, the proposal would reasonably minimise loss of views.



Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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

Description of non-compliance

The control for number of storeys is 2 and the proposed number of storeys is 3. It is noted that this includes a bottom storey for plant equipment.

Merit consideration:

With regard to the consideration for a variation, the clause states that the objectives for Height of buildings under Clause 4.3 of the Manly LEP 2013 are particularly applicable and as such the non-compliances are considered against these objectives:

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

Comment:

The proposed overall building height is compliant with the development standard despite being non-compliant with the control for number of storeys. The area is generally characterised by two and three storey development with a mixture of roof forms. The proposed attached dwellings would be at a lower maximum height than the neighbouring dwelling at 63 Bower Street so as to fit into the pattern of ridge levels dropping toward the west on this side of the street.

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

Comment:

The proposal involves a two storey presentation at Montpelier Place and a three storey presentation at Bower Street. As a result of the compliant setback to Bower Street and the visual buffer provided by the road reserve, the presentation of the three storeys in Bower Street will be sufficiently minimised. The compliant height and compliant setbacks along with the lack of floor area at the bottom level also provide a dwelling that is well controlled in terms of bulk and scale despite having a numerical non-compliance of one storey.

(c) to minimise disruption to the following:

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

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

(iii) views between public spaces (including the harbour and foreshores),



Comment:

As the proposal is compliant with building height and the provision of the third storey is downslope, the third storey element makes no greater contribution to view loss than a fully compliant envelope would. The proposal also reasonably minimises disruption to views as discussed under "Part 3 Maintenance of Views" of the Manly DCP in this report.

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

The proposal reasonably provides for sunlight and solar access through adequate setbacks and physical separation to both public and private open spaces. This is further discussed under the "Sunlight Access and Overshadowing" section of this report under Part 3 of the Manly DCP.

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

Comment:

The proposal provides a height and bulk that is consistent with the surrounding area and fits in with the step down of the nearby development to the west. Given the reasonable control on height and bulk, there is adequate physical separation with bushland and surrounding uses to minimise impact.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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

Description of non-compliance

The requirement for width of a garage is a maximum of 50% of the frontage up to 6.2m. The proposed garage is to be 7m.

Merit consideration:

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

Objective 1) To provide accessible and adequate parking on site relative to the type of development and the locality for all users (residents, visitors or employees).

Comment:

The proposal provides accessible parking to the rear of the site that is complementary with other garages in the street to ensure the parking structure would not have an unreasonable visual impact.



Objective 2) To reduce the demand for on-street parking and identify where exceptions to onsite parking requirements may be considered in certain circumstances.

Comment:

The proposal is compliant with the requirement for car parking and would sufficiently reduce demand for on-street car parking.

Objective 3) To ensure that the location and design of driveways, parking spaces and other vehicular access areas are efficient, safe, convenient and are integrated into the design of the development to minimise their visual impact in the streetscape.

Comment:

The proposed garage is complementary with the existing streetscape and would provide parking spaces with an efficient safe and convenient design. It is noted that owner's consent was provided for the lodgement of the application which included works to the driveway crossing and no issue was raised in regard to the works by Council's Engineer.

Objective 4) To ensure that the layout of parking spaces limits the amount of site excavation in order to avoid site instability and the interruption to ground water flows.

Comment:

The proposed car parking reasonably limits on site excavation as the majority of space for each garage is above existing ground level.

Objective 5) To ensure the width and number of footpath crossings is minimised.

Comment:

The proposed access is to one double spaced garage which reasonably minimises the width and number of footpath crossings in this circumstance.

Objective 6) To integrate access, parking and landscaping; to limit the amount of impervious surfaces and to provide screening of internal accesses from public view as far as practicable through appropriate landscape treatment.

Comment:

The proposed area has landscaping to the front which ensure the parking is reasonably integrated with natural features.

Objective 7) To encourage the use of public transport by limiting onsite parking provision in Centres that are well serviced by public transport and by encouraging bicycle use to limit traffic congestion and promote clean air.

Comment:

In this circumstance, the compliant car parking situation for the residential sites is appropriate and limiting car parking on site is not required.

Having regard to the above assessment, it is concluded that the proposed development is consistent



with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

4.1.9 Swimming Pools, Spas and Water Features

Description of non-compliance

The proposal is non-compliant with the control for the pool to be located in the rear setback and is non-compliant with the control for the water edge of the pool to be setback 1.5m from the side boundary. The pool is located in the front boundary and the water edge is located 1.2m from the side boundary.

Merit consideration:

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

Objective 1) To be located and designed to maintain the privacy (visually and aurally) of neighbouring properties and to minimise the impact of filter noise on neighbouring properties;

Comment:

The proposed pool area is located and designed appropriately to ensure there would be no unreasonable visual or aural privacy impact. This includes an appropriate physical separation from the neighbouring living areas and private open space as well as a lack of usable associated concourse.

Objective 2) To be appropriately located so as not to adversely impact on the streetscape or the established character of the locality;

Comment:

The proposed pool area is at the front of the site but would have no unreasonable impact on the streetscape due to its consistent nature, in terms of location, with other examples of pools in the street and the reduced visibility from the street due to the visual buffer provided by the raised landscape reserve.

Objective 3) To integrate landscaping; and

Comment:

The proposed development would result in a compliant amount of landscaped open space which includes a lawn area in close proximity to appropriately integrate landscaping on site.

Objective 4) To become an emergency water resource in bush fire prone areas.

Comment:

The proposed site is not in a bush fire prone area.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the



proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Manly Section 94 Development Contributions Plan

This part of the Act relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. The Act reads as follows:

- (1) *If a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision of or increase the demand for public amenities and public services within the area, the consent authority may grant the development consent subject to a condition requiring:*
- (a) *the dedication of land free of cost, or*
 - (b) *the payment of a monetary contribution,*
- or both.*
- (2) *A condition referred to in subsection (1) may be imposed only to require a reasonable dedication or contribution for the provision, extension or augmentation of the public amenities and public services concerned.'*

Comments:

In this case, the proposed development is likely to increase the demand for public amenities and public services within the area. Accordingly, suitable conditions have been included within the recommendation requiring payment of a section 94 contribution of \$20,000.00 in line with Manly Section 94 Contributions Plan.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/0128 for Demolition and construction a new dwelling house on land at Lot 68 DP 8075, 65 Bower Street, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA01 - Issue A- Site Plan and Roof Plan	08.06.18	Campbell architecture
DA02- Issue A- Site Analysis	08.06.18	Campbell architecture
DA03- Issue A- plan level 0	08.06.18	Campbell architecture
DA04- Issue A- plan level 1	08.06.18	Campbell architecture
DA05- Issue A- plan level 2	08.06.18	Campbell architecture
DA06- Issue A- south elevation	08.06.18	Campbell architecture
DA07- Issue A- east elevation	08.06.18	Campbell architecture
DA08- Issue A- north elevation	08.06.18	Campbell architecture
DA09- Issue A- west elevation	08.06.18	Campbell architecture
DA10- Issue A- cross section AA	08.06.18	Campbell architecture
DA17- Issue A- plan swimming pool	1.12.17	Campbell architecture

Engineering Plans		
Drawing No.	Dated	Prepared By
Stormwater Services- SW01, SW02	16.11.2017	Campbell architecture
Erosion & Sediment Control Plan	16.11.2017	Campbell architecture

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Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Arboricultural Construction Impact Assessment and Management Plan	October 2017	Botanics The Tree People
Terrestrial Biodiversity Impact Assessment and Threatened Fauna - Assessment of Significance Report	October 2017	Narla Environmental
Geotechnical Report	16.11.2017	Crozier Geotechnical Consultants

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
308_DA_10-Landscape Plan 01	1.12.17	Myles Baldwin Design
308_DA_11-Landscape Plan 02	1.12.17	Myles Baldwin Design

Waste Management Plan		
Drawing No.	Dated	Prepared By
Waste Minimisation and Management Plan & Checklist	13.11.17	Campbell Architecture

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

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

2. Prescribed conditions (Demolition):

- (a) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (i) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (ii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

(b) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and



B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

(c) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (i) protect and support the adjoining premises from possible damage from the excavation, and
- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

Reason: Legislative Requirement (DACPLB09)

3. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:



- A. the name of the owner-builder, and
- B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)

4. General requirements (Demolition):

- (a) Unless authorised by Council:
Demolition and excavation works are restricted to:
 - o 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission a Notice of Commencement to Council, a copy of the Development Consent is to remain onsite at all times until completion of demolition works. The consent shall be available for perusal of any Authorised Officer.

- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

- (e) The applicant shall bear the cost of all works that occur on Council's property.



(f) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(g) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

(h) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)

(i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

5. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than



- \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
 - (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
 - (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
 - (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
 - (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
 - (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation



area for any wastewater system and is separate from any onsite stormwater management system.

- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

FEES / CHARGES / CONTRIBUTIONS

6. **Security Bond**

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

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

7. **Section 94 Contribution - Residential**

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 the construction of a new 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.

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

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

8. **On-site Stormwater Detention (Manly)**

Drainage plans detailing the provision of On-site Stormwater Retention in accordance with Northern Beaches Council's "Manly Specification for On-site Stormwater Management 2003" and the concept drawing by ADCAR Consulting, drawing number P2017-165 dated 16/11/2017.

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



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

9. **Level 2 Planters**

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 on Level 2 planters and gardens.

Reason: To ensure the appropriate type of water proofing is carried out and descriptive information about drainage is provided. (2LD01)

10. **Required native tree planting**

Details are to be provided of the existing or proposed native trees for the site which are typically expected to reach a height at maturity of no more than 3 metres, to bring the proposal into compliance with number required by Figure 37 of the Manly Development Control Plan 2013 (being 3 trees).

As listed under clause 3.3.1 b)iii) the proposed trees shall be positioned in locations that minimise significant impacts on neighbours in terms of:

-blocking winter sunlight to either living rooms, private open space or solar collectors; or

-where the proposed location of the tree may be otherwise positioned to minimise any significant loss of views.

Details are to be submitted with the Construction Certificate to the satisfaction of the Council/Accredited Certifier.

Reason: This is to ensure the planting of endemic trees back onto the site. (2LD03)

11. **Pool Exclusion Fencing – Bandicoot Habitat**

Long-nosed Bandicoots are to be excluded from swimming pools and spas while maintaining access to any surrounding soft landscaping. Pool fencing must have no gaps large enough to allow bandicoots access.

Plans are to be amended and provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To prevent Long-nosed Bandicoots from drowning in swimming pools and spas.

12. **Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan (ESCP) shall be prepared by an appropriately qualified person and implemented onsite prior to commencement. The ESCP must meet the requirements outlined in the Landcom publication Managing Urban Stormwater: Soils and Construction - Volume 1, 4th Edition (2004). The ESCP must include the following as a minimum:

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas)

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- and site facilities);
- o Existing and proposed drainage patterns with stormwater discharge points
- o Locations and methods of all erosion and sediment controls;
- o North point and scale.

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

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

13. No Bright Lighting – Bandicoot Habitat

No bright lighting or motion detectors are to be installed to illuminate the lawn or garden areas. A modest amount of low lighting may be used for safety purposes only.

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

Reason: Bright lighting disturbs Long-nosed Bandicoots and disrupts normal Bandicoot foraging, sheltering and nesting activity.

14. Access to Undercroft Areas – Bandicoot Habitat

Where concealing material is required for any undercroft areas (e.g. under the house, stairs or balcony), gaps are to be established to allow Long-nosed Bandicoot access. Gaps are to be at least 150mm high and 300mm wide.

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

Reason: To maintain bandicoot access to existing and proposed habitat within and surrounding the site.

15. Preparation of CEMP – Manly LEP Clause 6.5

A Construction Environmental Management Plan (CEMP) is to be prepared outlining all measures for the protection of native fauna and vegetation during the construction phase. Measures to be addressed in the CEMP include, but are not limited to, all conditions of this consent addressing construction-related biodiversity impacts.

The CEMP is to be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure conditions for the prevention of construction-related biodiversity impacts are complied with during the construction phase.

16. Swimming Pools

The backwash of Swimming Pool water must be discharged to Sydney Water's sewer in accordance with Australian/New Zealand Standard AS/NZS 3500. Detailed plans and specification must be submitted prior to the issue of the Construction Certificate. The drawings must show the location of Sydney Water's sewer, the yard gully or any new connection to the sewer system including a detailed cross section of the connection complying with Australian/New Zealand Standard AS/NZS 3500.

Reason: To ensure compliance with legislation and Australian Standards and to protect public



health, amenity and to ensure the protection and preservation of receiving waters.

17. **Stormwater Management**

Stormwater shall be disposed of in accordance with Council's Policy. The stormwater management plan is to be implemented to ensure that there is no increase in stormwater pollutant loads arising from the approved development. Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from development, ensuring that the proposed works do not negatively impact receiving waters.

18. **Amend Landscape Drawings – Bandicoot Habitat**

The Landscape drawings, submitted in conjunction with the approved Development Application and as amended by these conditions of consent, are to be amended to exclude the following species: *Optunia stricta*. Replacement species must be selected from the following as listed as bandicoot habitat species in the Manly DCP: *Lomandra sp.*, *Dianella sp.*, *Banksia spinulosa*, *Westringia fruticosa*, *Caustis sp.*, *Xanthorrhoea sp.*, *Isolepis sp.*, *Juncus sp.*, *Adiantum sp.*, *Callistemon sp.* and tussock native grasses.

Plans are to be amended and submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To improve potential Long-nosed Bandicoot habitat at the site and/or to offset reductions in potential Bandicoot habitat as a result of the development.

19. **Access Spaces – Bandicoot Habitat**

Any new gates or fences are to be designed to include gaps appropriate to maintain bandicoot access through and within the site. Gaps are to be at least 150mm high and 300mm wide. This condition does not apply to pool fencing.

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

Reason: To maintain bandicoot access to existing and proposed habitat within and surrounding the site.

20. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

21. **Privacy for Terrace**

The proposed terrace at 'plan level 1' is to have non-trafficable areas 2 metres from the side boundaries. Details are to be provided prior to the issue of a Construction Certificate.

Reason: To minimise loss of privacy to neighbouring dwellings. (DACPLCPCC1)



22. **Non- trafficable area at Level 2**

The operable roof and area adjacent to Bathroom 1 at 'plan level 2' is to be non-trafficable. Details are to be provided prior to the issue of a Construction Certificate.
Reason: To ensure consistency between plans and to minimise potential privacy loss. (DACPLCPCC2)

23. **Western wall**

The proposed wall at the southern boundary is to be as shown on the southern elevation and not lowered at any existing point. Details are to be provided prior to the issue of a construction Certificate.
Reason: To ensure adequate privacy between properties.

24. **Lawn level**

The proposed lawn level at the south western corner is to be RL34.78 as provided on plan level 1. Details are to be provided prior to the issue of a Construction Certificate.

Reason: To ensure consistency between plans.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

25. **Public Liability Insurance - Works on Public Land**

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Warringah Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land. (DACEND01)

26. **Tree and vegetation protection**

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.

a) Existing trees and vegetation shall be retained as follows:

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

b) Tree protection shall be undertaken as follows:

- i) all tree protection shall be in accordance with the recommendations provided within the approved Aborigicultural Impact Assessment report (as applicable) and AS4970-2009 Protection of Trees on Development Sites, with particular reference to Section 4
- ii) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees
- iii) all tree protection measures, including fencing, are to be in place prior to the commencement of works
- iv) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained.
- v) no tree roots greater than 50mm diameter are to be cut from protected trees unless

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- authorised by a qualified Arborist on site
- vi) all structures are to bridge tree roots greater than 50mm diameter unless directed a qualified Arborist on site
- vii) should either or both v) and vi) occur during site establishment and construction works, details shall be submitted by the Arborist to the Certifying Authority.

Reason: To ensure the trees conditioned to stay on the site are suitably protected during any construction works. (3LD01)

27. **Installation and Maintenance of Sediment and Erosion Control**

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

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

28. **Site Induction Required – Penguin and Bandicoot Habitat**

All workers, including site inspectors and sub-contractors, are to be made aware of the potential presence of relevant threatened species and endangered ecological communities through a site induction prior to commencement of works. The site induction is to include information about their conservation significance, potential activities on-site, means of identification and the measures to be implemented for their protection. A confirmation of induction is to be signed by every worker and the site manager.

Evidence of the site induction is to be documented and provided to the Principal Certifying Authority.

Reason: To prevent impacts to threatened species, endangered ecological communities and their habitats in accordance with the Biodiversity Conservation Act 2016.

29. **Fauna Protection Fencing – Penguin and Bandicoot Habitat**

Temporary chain wire fencing is to be installed around all work areas (including demolition, storage and construction areas) prior to the commencement of works. The fencing is to be designed to minimise the possibility of ground-dwelling native fauna (including relevant threatened species) accessing the work areas. Fencing is to be maintained for the duration of works.

Reason: To prevent impacts to ground-dwelling native fauna, including relevant threatened species.

30. **Ecologist to Induct Site Manager – Penguin and Bandicoot Habitat**

Prior to commencement of construction works, the project ecologist is to meet with the site manager to:

- a) advise of conditions to be implemented for protection of relevant threatened species and endangered ecological communities;
- b) ensure that all workers are appropriately briefed on required protective measures; and
- c) inspect protective measures to confirm their adequacy and advise the

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proponent and site manager of the inspection results and their implications.

Reason: To prevent impacts to threatened species, endangered ecological communities and their habitats in accordance with the Biodiversity Conservation Act 2016.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

31. **Maintenance of Road Reserve**

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety.

32. **Blank condition for during works - replace this heading with your condition heading**

Road Opening permit to be obtained for connection of private stormwater pipes to kerb. Ensure pipe connection to kerb is recessed into rock face of Bower Street road cutting, and stone pitched to hide any visible pipework.

Reason: To ensure damage to Council assets is managed appropriately (DACHEEDW1)

33. **Stockpiling materials**

During construction, all material associated with works is to be contained at source, covered and must be within the construction area. All material is to be removed off site and disposed of according to local regulations. The property is to be kept clean and any building debris removed as frequently as required to ensure no debris enters receiving waters.

Reason: To ensure pollution control measures are effective to protect the aquatic habitats within receiving waters throughout the construction period.

34. **Pre-clearance Survey Required – Bandicoot Habitat**

A pre-clearance survey for Long-nosed Bandicoot activity and presence is required prior to the removal of any vegetation, material or debris stockpiles. Clearing may only proceed if the survey concludes that no Long-nosed Bandicoots are present within the area to be cleared. All clearing must initially be carried out with hand tools to identify whether any bandicoots are sheltering within the area to be cleared (e.g. at the base of vegetation or under deep litter). Machinery may only be used once it has been confirmed that no bandicoots are sheltering within the area to be cleared. Clearing must be carried out at dusk and completed within one day so that bandicoots do not reoccupy partially cleared areas overnight. A record of each inspection is to be made in the daily inspection register log-book. The log-book is to be made available to the Principal Certifying Authority.

Reason: To avoid injury or death of Long-nosed Bandicoots which may be utilising stockpiles of vegetation, materials or debris.

35. **Daily Inspections Required – Bandicoot Habitat**

An inspection register log-book must be kept on site recording daily inspections of all holes, machinery and construction material stockpiles, checking for Long-nosed Bandicoots. Inspections are to be undertaken each work day prior to commencement of works and works may only proceed once any bandicoot has safely vacated any holes, machinery or stockpiles. The log-book is to be made available to Principal Certifying Authority.

Reason: To avoid injury or death of Long-nosed Bandicoots which may be utilising stockpiles of



vegetation, materials or debris.

36. **Pollution Control**

All stockpiles, materials, waste and slurry associated with works (including excavated material) is to be contained at source within the construction area and enclosed in waterproof covering and/or sediment and erosion control while not in use. All waste/debris is to be removed off site and disposed of as frequently as required in accordance to local regulations.

Reason: To protect the surrounding environment, and ensure that pollutants and building associated waste do not leave the construction site.

37. **CEMP to be Implemented – Manly LEP Clause 6.5**

Construction is to be undertaken in accordance with the Construction Environmental Management Plan (CEMP). All workers are to be made aware of the content of the CEMP.

Reason: To ensure conditions for the prevention of construction-related biodiversity impacts are complied with during the construction phase.

38. **Report Dead or Injured Bandicoots – Bandicoot Habitat**

Any injured or dead Long-nosed Bandicoots found within the worksite must be reported to the National Parks & Wildlife Service (9457 9577) or Northern Beaches Council (1300 434 434).

Reason: To prevent impacts to Long-nosed Bandicoots in accordance with the Biodiversity Conservation Act 2016.

39. **Geotechnical Issues**

All conditions outlined in the Report on geotechnical site investigation for proposed dwelling, garage and swimming pool at 65 Bower Street, Manly prepared by Crozier Geotechnical Consultants dated Nov 2017 are to be complied with and adhered to throughout development.

Reason: To ensure works are undertaken in an appropriate manner and structurally sound.

40. **Pollution Control**

Any excess materials such as cleaning paintbrushes, lacquers, and any water from cleaning tools must not enter the stormwater network and/or receiving waterways.

Reason: To ensure that building associated chemicals and pollutants don't enter the surrounding environment.

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

41. **Authorisation of Legal Documentation Required for On-site Stormwater Detention**

An application for the authorisation of legal documents is to be lodged with Council and payment of the associated fee. The application is to include the original completed request forms (Department of Lands standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and photographic evidence of the completed system.

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

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate

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operational standard

42. **Registration of Encumbrances for On-site Stormwater Detention**

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

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

Reason: To identify encumbrances on land. (DACENF02)

43. **On-Site Stormwater Detention Compliance Certification (Manly)**

A copy of the approved Onsite Stormwater disposal system showing Works as Executed (WAE) details must be submitted to Council for approval. The WAE must be certified by a registered surveyor. The details information for WAE is shown in Council's "Manly Specification for On-site Stormwater Management 2003".

A completion certificate of the on-site stormwater disposal system, certification from a consulting engineer

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

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

44. **Creation of Positive Covenant and Restriction as a User**

Where any conditions of this Consent require the creation of a positive covenant and/or restriction as a user, the original completed request forms, (Department of Lands standard forms 13PC and/or 13RPA), shall be submitted to Northern Beaches Council for authorisation.

A certified copy of the documents shall be provided to Northern Beaches Council after final approval and registration has been affected by the "Department of Lands".

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of a Interim / Final Occupation Certificate.

Reason: To identify encumbrances on land. (DACENF14)

45. **Landscape works certification**

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. (5LD01)

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

46. **Landscape maintenance**

Landscaping is to be maintained for the life of the development in accordance with the approved
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Landscaping Drawing, and conditions of consent.

Reason: This is to ensure that landscaping is maintained appropriately. (6LP03)

47. **Stormwater Pollution Control Pits**

The Registered Proprietors of the property must maintain on a regular basis (every six months or after heavy rain events) stormwater pollution control pits including the clearing of silt, debris and rubbish, in perpetuity. The Registered Proprietors must ensure the effective operation of pollution control pits to prevent pollution of Sydney Harbour by stormwater generated onsite.

Reason: To ensure appropriate provision is made for the treatment and management of storm water generated by the development for the protection and preservation of the aquatic habitats and biota within receiving waters.

48. **No Planting Environmental Weeds**

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

Reason: Weed management.

49. **Dead or Injured Wildlife – Manly LEP Clause 6.5**

If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To mitigate potential impacts to native wildlife resulting from construction activity.



Photo 1: Standing view from living room of 9 Montpelier Place.



Photo 2: Standing view from upper level of 9 Montpelier Place.



Photo 3: Taken from standing level in living area of 10 Montpelier Place.



Photo 4: Taken from standing level in living area of 11 Montpelier Place



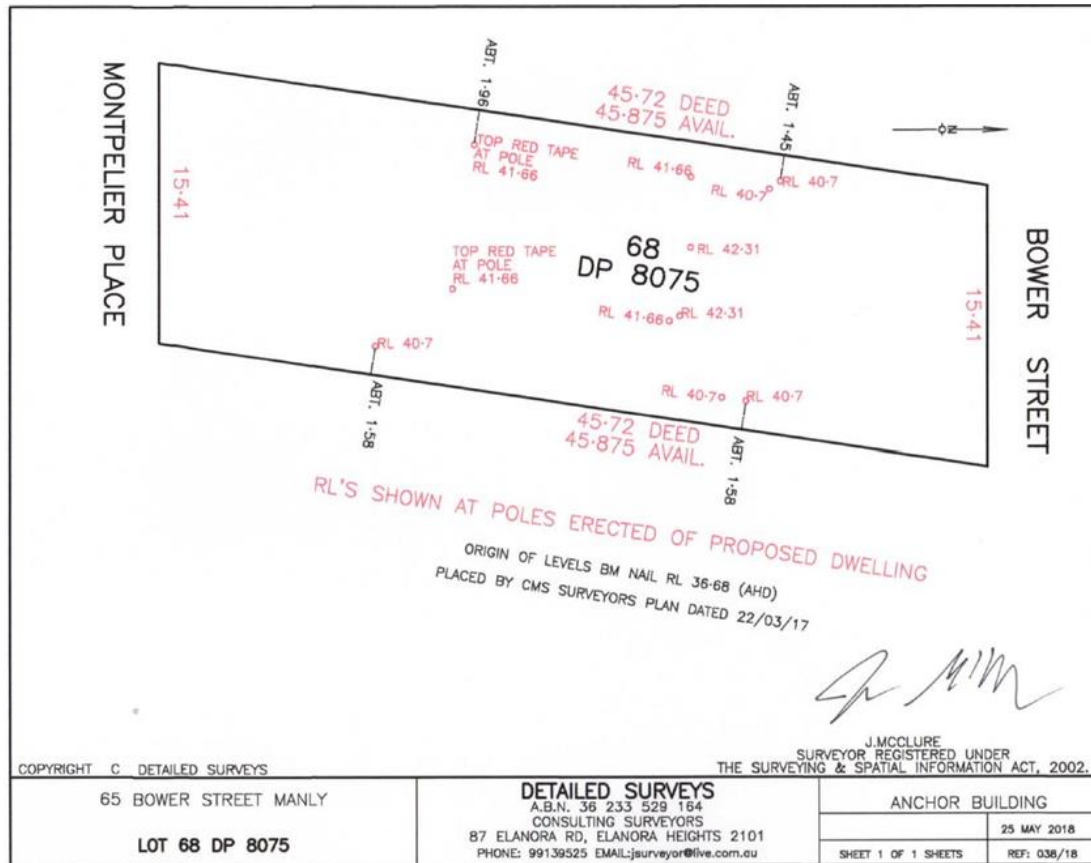
Photo 5: Taken from living area at 11 Montpelier Place



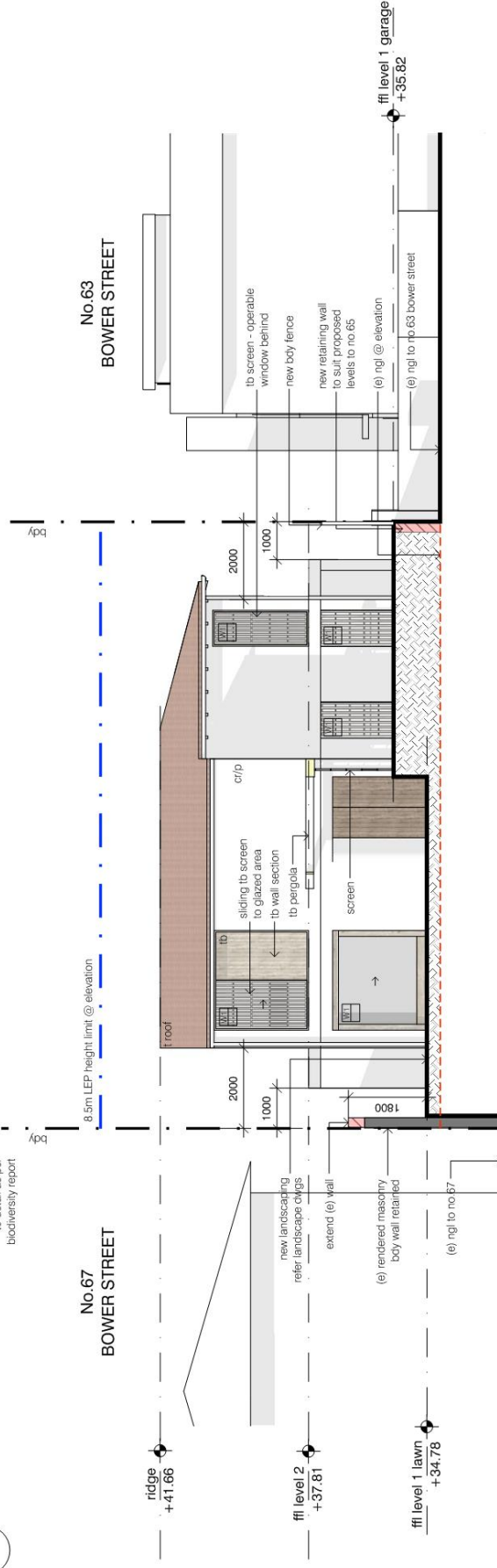
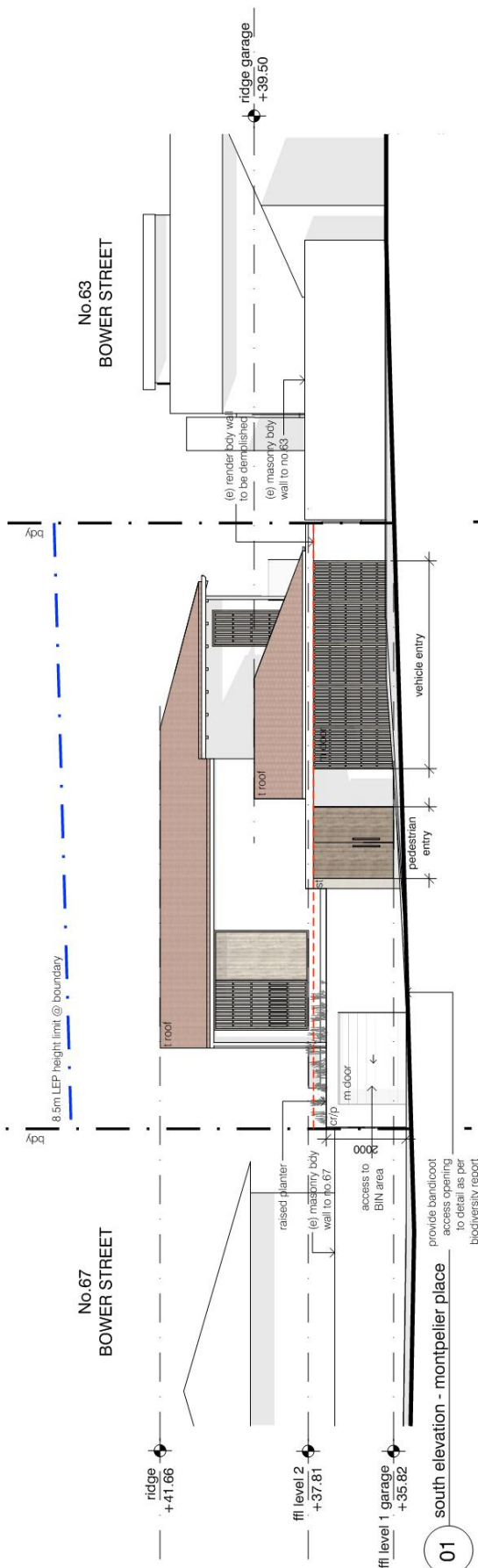
Photo 6: Taken from living area at 12 Montpelier Place



Note: The following figure is the survey certification of the location and height of the height poles. It is noted that there are height poles in that exist from the original proposal. The proposed maximum height for the amendments is RL41.66.







date	description	author	project
01.12.17	DA submission	A	DA 06
06.06.18	DA roof amendment	A	1:100
			last modified : 18.06.08
			1701

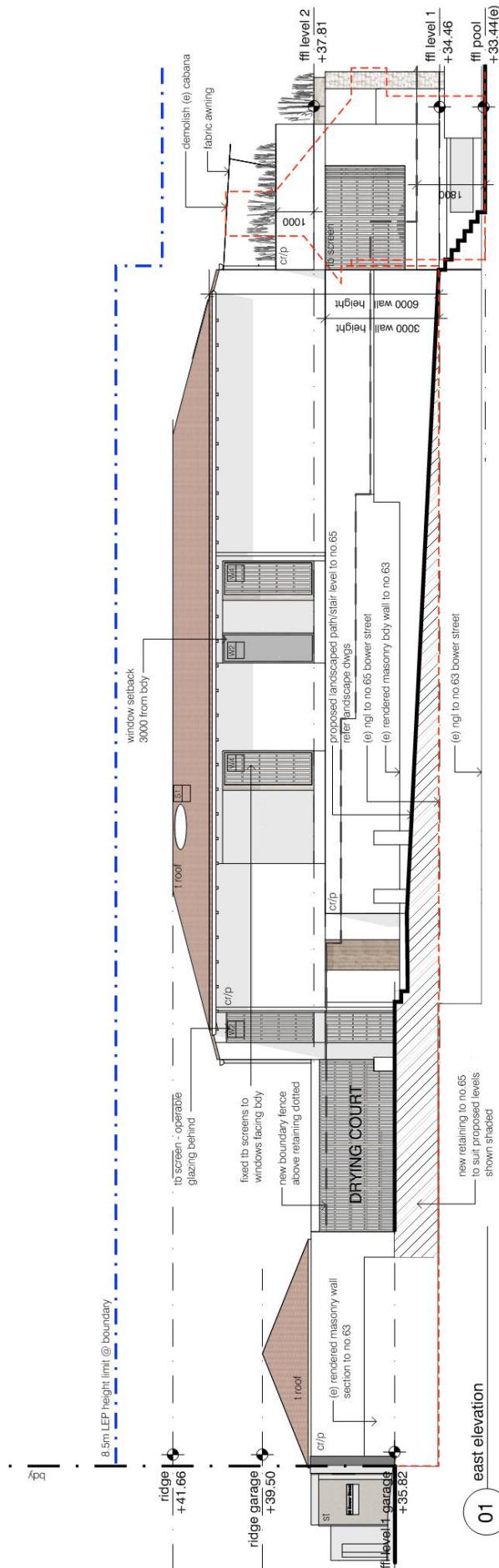
The Contractor shall verify all dimensions & levels on the site. Written dimensions to take preference over scaled dimensions. Documents & design remain the copyright of the Architect & cannot be reproduced without written consent.

campbell architecture
75 Renwick Street Alexandria NSW 2015
U +61 02 7503 5266
info@campbellarchitecture.com.au
ABN 46 616 525 449
NOM REC NO. 6824

campbell architecture
A

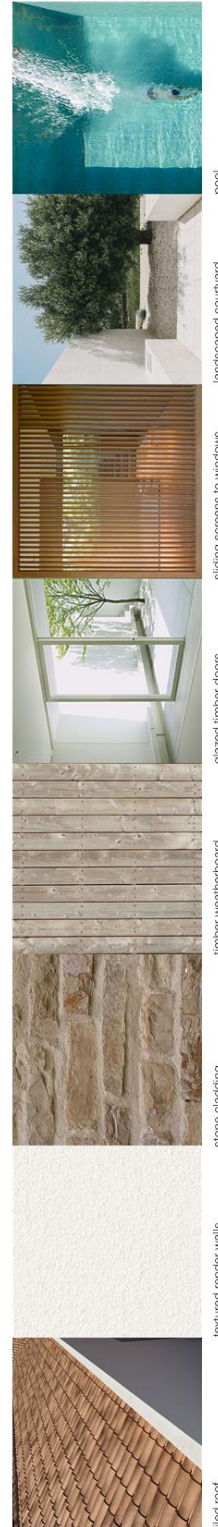
south_elevation
65 bower street
manly





01 east elevation

02 materials & finishes



date	description	author	project	drawing no	scale
01.12.17	DA submission	campbell architecture	east_elevation	DA 07	1:100
06.06.18	DA roof amendment	75 Herwick Street Alexandria NSW 2015 U +61 02 7503 5266 info@campbellarchitecture.com.au ABN 46 616 525 449 NOM REC NO. 6824	65 bower street	1701	last modified : 18.06.08

The Contractor shall verify all dimensions & levels on the site.
Written dimensions to take preference over scaled dimensions.
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[illegible]



ITEM 3.2	DA2018/0608 - 16 CLIFF STREET, MANLY - ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE
REPORTING MANAGER	Rodney Piggott
TRIM FILE REF	2018/478978
ATTACHMENTS	1 ↓ Assessment Report 2 ↓ Site Plan and Elevations

PURPOSE

To refer the attached application for determination as required under adopted delegations of the Charter.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority grant Development Consent to DA2018/0608 for Alterations and additions to a dwelling house on land at Lot 16 DP 77273, 16 Cliff Street, MANLY, subject to the conditions outlined in the Assessment Report.



REPORT TO DEVELOPMENT DETERMINATION PANEL

Meeting held on 08 August 2018

16 Cliff Street Manly - Alterations and additions to a dwelling house

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/0608
Responsible Officer:	Benjamin Price
Land to be developed (Address):	Lot 16 DP 77273, 16 Cliff Street MANLY NSW 2095
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Development Determination Panel
Land and Environment Court Action:	No
Owner:	Samuel Charles Fraser Cooper Samantha Jean Black
Applicant:	Samuel Charles Fraser Cooper
Application lodged:	17/04/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	20/06/2018 to 06/07/2018
Advertised:	Not Advertised
Submissions Received:	4
Recommendation:	Approval
Estimated Cost of Works:	\$ 1,450,000.00

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report)
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taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;

- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Development Control Plan - 3.1 Streetscapes and Townscapes

Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing

Manly Development Control Plan - 3.4.2 Privacy and Security

Manly Development Control Plan - 3.4.3 Maintenance of Views

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

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

Manly Development Control Plan - 4.1.5 Open Space and Landscaping

Manly Development Control Plan - 4.4.5 Earthworks (Excavation and Filling)

SITE DESCRIPTION

Property Description:	Lot 16 DP 77273 , 16 Cliff Street MANLY NSW 2095
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the south-eastern side of Cliff Street.</p> <p>The site is regular in shape with a frontage of 15.24m along Cliff Street and a depth of 46.025m. The site has a surveyed area of 701.4m².</p> <p>The site is located within the R1 General Residential zone and accommodates a single storey dwelling house.</p> <p>The site slopes from south-east to north-west and includes a cross fall of 4.9m. The site is landscaped with lawns small shrubs and some small trees. There are no significant landscape features within the development site.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by semi-detached dwellings, multi dwelling housing, dwelling houses and residential flat buildings.</p>

Map: DA2018/0608

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SITE HISTORY

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

DA173/2011 - Conversion of an existing single level boarding house to a dwelling house with internal alterations, additions and demolition of rear toilet.

PROPOSED DEVELOPMENT IN DETAIL

The proposal includes:

Lower Floor

- Excavation for a basement garage

Ground Floor

- Alterations to provide for lounge room, bed/study with walk in robe and ensuite, guest room, bathroom, open plan sitting kitchen dining and living with attached deck.

First Floor

- First floor addition including bedroom 1 with walk in robe ensuite and attached balcony, bathroom and two bedrooms.

Site

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- Driveway to proposed garage
- Landscaping
- Fencing

Amended plans were received on the 18 June 2018 that included an amendment to the groundfloor rear deck and the provision of a pergola. The amended plans were re-notified.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p>



Section 4.15 Matters for Consideration'	Comments
	<p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p>Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 4 submission/s from:



Name:	Address:
Colco Consulting Pty Ltd	29A Amiens Road CLONTARF NSW 2093
Bright & Duggan Strata	C/ Bright & Duggan Shop 1 / 651 Pittwater Road DEE WHY NSW 2099
Withheld	MANLY NSW 2095
Withheld	MANLY NSW 2095

The following issues were raised in the submissions and each have been addressed below:

- Visual/Acoustic Privacy and amenity
- Bulk, Height and Over development
- Streetscape
- Heritage Impact
- Non-compliance with planning controls and objectives
- Verification of Maximum Height
- Inaccuracies in perspectives and Statement of Environmental Effects
- Verification of shadow diagrams
- View Loss
- BBQ Odour impact
- Incorrectly notified
- Clarifications (Calculation plans and schedule for FSR and Height, Height Poles, boundary retaining wall, dilapidation report, privacy screening, tree and plant species, Construction barrier, sand room)
- Easement for guttering

The matters raised within the submissions are addressed as follows:

- Visual and Acoustic Privacy and amenity
Comment:
The proposal has been assessed below with regard to Clause 3.4 Amenity (Views, Overshadowing, Overlooking/Privacy, Noise) and was found to be satisfactory. In particular, the proposal was found to be of a suitable design to minimise the loss of visual and acoustic privacy within the locality.
- Bulk, Height and Over development
Comment:
The Principal Development Standards within 4.3 Height of Buildings and 4.4 Floor Space Ratio are the principal controls used to limit the bulk and scale of development on a site. The proposal is compliant with these controls. An assessment of the proposal has found that it is of a suitable bulk and scale within the locality and is not an over development of the site.
- Streetscape
Comment:
The proposal has been assessed below with regards to Clause 3.1 Streetscape of the Manly DCP 2013 and was found to be satisfactory.
- Heritage Impact



Comment:

Councils Heritage Officer has reviewed the proposal and is satisfied that the proposal will not result in any unreasonable impacts on the heritage value of the site or the adjoining property.

- Non-compliances with planning controls and objectives

Comment:

All non-compliances have been assessed below with regard to the relevant objectives. In summary the non-compliances were found to be consistent with the objectives of the controls.

- Verification of Maximum Height

Comment:

The submitted sections have been verified against the survey provided and found to be accurate. The sections are adequate to determine the maximum building height.

- Inaccuracies in perspectives and Statement of Environmental Effects

Comment:

An independent assessment has been conducted and the Statement of Environmental Effects of the perspectives has not been relied upon for this assessment.

- Verification of shadow diagrams

Comment:

The shadow diagrams have been reviewed by the assessing officer and found to be accurate. Further independent verification is not required.

- View Loss

Comment:

An assessment in accordance with the objectives of Clause 3.4.3 Maintenance of Views and the Views Planning Principle established by the NSW Land and Environment Court. In summary the assessment found the proposal to be satisfactory.

- BBQ Odour impact

Comment:

The BBQ is associated with a single dwelling and is setback 600mm from the boundary. The BBQ will not have an unreasonable impact within the locality.

- Incorrectly notified

Comment:

The re-notification of the application on the 20 June 2018 notified the application for 16 days and evidence has been supplied to Council that the notification sign was erected during this period.

- Clarifications (Calculation plans and schedule for FSR and Height, Height Poles, boundary retaining wall, dilapidation report, privacy screening, tree and plant species, Construction barrier, sand room)

Comment:

Sufficient information has been shown on the plans. Calculation plans are not required. The survey and the information on the plans is sufficient to determine the impact of the development. As such height poles are not required.

There is an existing brick wall adjoining the existing retaining wall. This is proposed to be removed and the existing retaining wall retained.

A condition has been recommended to require a dilapidation report for 18-20 Cliff Street Manly. The first floor windows are setback 3.1m from the boundary and have a 1.35m sill height. These windows will not have an unreasonable impact on privacy. As such, a condition specifying



screening is not reasonable.

A condition is recommended to delete the tree. Subject to the deletion of this tree the proposed plantings will not unreasonably impact the neighbouring properties. A condition has been recommended requiring a suitable construction barrier.

The sand room is on the plans and included as part of this application.

- Easement for guttering

Comment:

After discussions with the applicant it was advised that there were no proposed works within the easement adjacent to the south-eastern boundary. To ensure this is clear within the consent a condition is recommended specifying that no approval is granted for works within the easement.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The landscape component of this proposal is acceptable, subject to the completion of the landscaping as shown on Landscape Plan SLP01 and SLP02 and associated conditions.
NECC (Development Engineering)	Development Engineer has no objection to the application subject to the following condition of consent.
Strategic & Place Planning (Heritage Officer)	<p>Further to a review of the available documents and site visit,</p> <p>The site of proposed development is not a listed heritage item in its own right, however, it is located in the vicinity of heritage items, notably including two groups of houses in Addison Road (abutting) and in Cliff Street (adjoining), which are collectively listed as two individual items.</p> <p>The proposal utilises adequate architectural style, materials, finishes and details suited to the sensitive context. Given the nature of the proposal and the separation between sites, and given the favourable topography, the impact on heritage values is assessed as acceptable.</p> <p>Based on the above, I have no objections to this proposal from heritage perspective.</p> <p>Zoran Popovic Heritage adviser Land Use Planning</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are

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External Referral Body	Comments
	recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

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

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

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

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A313471 dated 15 April 2018).

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

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.455m - 7.35m	N/A	Yes
Floor Space Ratio	FSR: 0.6:1 (420.84sqm)	FSR: 0.43:1 (355.9sqm)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes

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Clause	Compliance with Requirements
6.5 Terrestrial biodiversity	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 701.4	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	North-East: 6.8m (based on gradient 1:20)	7.35m - 8.455m	6.6%-24.3%	No
	South-West: 6.9m (based on gradient 1:15)	7.35m - 8.455m	6.5%-22.5%	No
4.1.2.2 Number of Storeys	2	2/3	50%	No
4.1.2.3 Roof Height	Height: 2.5m	N/A - Roof included in wall height	N/A	No
	35 Degrees	40 Degrees (roof included in wall height as per DCP)	14.3%	
4.1.4.1 Street Front Setbacks	Prevailing building line 9m	11.2m Existing	N/A	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages (based on wall height)	North-east Ground Floor 1.4m - 0.9 First Floor 2.45m-2.8m	North-east Ground - Nil First Floor 3.1-3.5m	100%	No
	South-west Ground Floor 1.6m - 0.9m First Floor 2.45m-2.8m	South-west Ground Floor 2.48m - 1.08m First Floor 4.04m - 4.49m	N/A	Yes
4.1.4.4 Rear Setbacks	8m	Deck 8m Dwelling House 11.4m	N/A	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area (385.77sqm)	49% (346.6sqm)	10.2%	No
	Open space above ground 25% of total open space (86.6sqm)	10% (35.3sqm)	N/A	Yes
4.1.5.2 Landscaped Area	Landscaped area 35% of open space (121.3sqm)	70% (242.7sqm)	N/A	Yes
	3 native trees	Nil	100%	No
4.1.5.3 Private Open Space	18sqm per dwelling	177.3sqm	N/A	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m (6.2m)	6m	N/A	Yes
4.4.5 Earthworks (Excavation)	Generally 1m	1.5m	50%	No

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and Filling)				
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces	N/A	Yes

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.10 Fencing	No	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	No	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
5.4.2 Threatened Species and Critical Habitat Lands	Yes	Yes

Detailed Assessment

3.1 Streetscapes and Townscapes



Description of non-compliance

The Manly DCP 2013 requires front fences to be a maximum height of 1.5m with the area over 1m being 30% transparent. The proposal includes a fence of 1.75m - 1.8m

Merit consideration:

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

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

Comment:

The proposed fence is consistent with the existing fence and will not result in any unreasonable impacts on the streetscape.

The proposed carparking is within the existing building envelope and will not impose on the streetscape.

The proposed fence and carparking is adequately designed to minimise its impact on the streetscape.

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

Comment:

The proposed first floor addition is designed to ensure it is consistent with the existing built form on the site and is situated to ensure it is not readily visible from the streetscape. The proposal will maintain the existing character of the site and will compliment the streetscape within the locality.

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

Comment:

The proposal will replace the existing front wall/fence. The proposed fence is consistent with the existing development on the site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP 2013 and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

3.4.1 Sunlight Access and Overshadowing

Merit consideration:

The development is considered against the underlying Objectives of the Control as follows:

Objective 1) To provide equitable access to light and sunshine.



Comment:

The proposal will result in additional overshadowing of 18-20 Cliff Street and 14 Cliff Street.

The properties at 18-20 Cliff Street have no windows facing the common boundary that will be overshadowed. The elevational shadow diagrams demonstrate that the increase in overshadowing to the private open spaces of 18-20 Cliff Street in the afternoon of the winter solstice is minor and will not significantly impact the amenity of the property.

The property at 14 Cliff Street will receive additional overshadowing of the north-eastern private open space adjoining the common boundary and the rear private open space during the morning of the winter solstice. These spaces will retain access to light during midday and the afternoon of the winter solstice. This property will maintain an adequate access to light to the private open spaces. It is noted that the private open space on the north-eastern side is susceptible to being overshadowed during the morning of the winter solstice due to its location close to the adjoining boundary.

The design of the proposed development ensures sufficient separation and articulation to ensure the proposal maintains an equitable access to light and sunshine within the locality.

Objective 2) To allow adequate sunlight to penetrate:

- private open spaces within the development site; and
- private open spaces and windows to the living spaces/ habitable rooms of both the development and the adjoining properties.

Comment:

The proposal will result in additional overshadowing of the private open spaces of 14 Cliff Street. The proposal will not result in any unreasonable overshadowing of windows to habitable rooms of this property. This property will maintain adequate access to light and sunshine during midday and the afternoons of the winter solstice.

The proposal will result in minor overshadowing of the private open spaces of 18-20 Cliff Street. The additional overshadowing will not significantly impact the amenity of this property. The proposal will maintain adequate sunlight access to this property.

The proposed development is designed to capture sunlight on the northern, eastern and western aspects. The proposal will receive adequate sunlight to private open spaces and windows to habitable rooms.

Objective 3) To maximise the penetration of sunlight including mid-winter sunlight to the windows, living rooms and to principal outdoor areas by:

- encouraging modulation of building bulk to facilitate sunlight penetration into the development site and adjacent properties; and
- maximising setbacks on the southern side of developments to encourage solar penetration into properties to the south.

Comment:

The proposal is designed to maximise sunlight including mid-winter sunlight to windows, living rooms

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and to principal outdoor areas.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP 2013 and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

3.4.2 Privacy and Security

Merit consideration:

The development is considered against the underlying Objectives of the Control as follows:

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

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

Comment:

The proposal is of an appropriate form to minimise the loss of privacy within the locality.

The wall of the proposed kitchen addition adjacent to the north-eastern boundary contains no windows, is proposed mostly below the fence level of the neighbouring property and as such will not impose on the private open spaces of 18-20 Cliff Street. The sky lights to this portion of building are for light and will not result in any unreasonable overlooking of the neighbouring properties.

The proposed deck to the rear of the dwelling was amended on the 18 June 2018. The amended design provided an 8m setback to the deck and included a pergola. The deck is located below the ground level of the neighbouring property and includes a 600mm planter on the boundary. It is noted the landscape plan details a barbecue on this boundary. The applicant advised that the landscape plan was in error and that a 600mm planter is proposed on this boundary. A condition is recommended to require the landscape plan be updated with a 600mm planter on the north eastern boundary in the place of the BBQ. Due to the proposed location of the deck and pergola below the level of the dividing fence and setback 600mm from the boundary the proposal will not result in any unreasonable privacy impacts within the locality.

The proposed first floor is designed as an attic style addition. Due to this form the proposal incorporates good articulation and side boundary setbacks. The first floor windows facing the side boundaries are to a bathroom, ensuite and bedrooms. These are not entertaining spaces and all windows incorporate setbacks of 3m to a maximum setback of 4.49m. Furthermore the side boundary facing windows to the rear bedrooms have a sill height of 1.3m. This will restrict downwards overlooking of the private open space of the neighbouring properties. The neighbouring property to the north-east at 18-20 Cliff Street does not have windows facing the side boundaries. The proposal will not result in any direct viewing between windows and will not result in any unreasonable overlooking of private open spaces. The proposed first floor will not result in any unreasonable privacy impacts.

The proposal will minimise loss of privacy to adjacent and nearby development.

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



Comment:

The proposal is of an appropriate form and design to ensure no unreasonable privacy impacts and to maintain access to light and air. The proposal will achieve a balanced outlook and views from habitable rooms and private open spaces.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The proposal will encourage passive surveillance of the streetscape.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP 2013 and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

3.4.3 Maintenance of Views

Merit consideration:

The proposal will result in the loss of views from the first floor bedroom of 4/18-20, 5/18-20, 6/18-20 Cliff Street Manly. The development is considered against the underlying Objectives of the Control as follows:

Objective 1) To provide for view sharing for both existing and proposed development and existing and future Manly residents.

Comment:

The proposal is a reasonable development and the views obstructed are vulnerable. The assessment below has considered the proposal against the Views Principle established by the NSW Land and Environment Court and was found to be satisfactory.

Objective 2) To minimise disruption to views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from both private property and public places (including roads and footpaths).

An assessment of view loss has also been undertaken with reference to the Views Principle established by the NSW Land and Environment Court as follows:

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

Comment:

The views lost are highly obscured views of Sydney Harbour. A site inspection was undertaken at 6/18-20 Cliff Street Manly at the request of the Owner. The view was photographed at this inspection. These



photographs have not been included in the assessment report at the request of the Owner. The photograph below is the view from 4/18-20 Cliff Street Manly.



View from 4/18-20 Cliff Street, Manly

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

Comment:

The views are obtained by overlooking the side boundary from a standing position from the first floor bedroom and attached balcony of the three rear dwellings at 18-20 Cliff Street.

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

Comment:

The bedrooms and attached balconies are the only parts of the properties that obtain the view. The

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proposed development will obstruct all water views. The impact on the view is best described as devastating.

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

Comment:

The proposal is compliant with the height of buildings control and the floor space ratio control of the Manly LEP 2013. The proposal is also compliant with the rear setback control of the Manly DCP 2013. The proposal is not compliant with the roof pitch control and the wall height control. However, a first floor addition that complies with this control would still obstruct the view. The view is obtained from overlooking the side boundary through the middle of the site at a height that makes the view very difficult to retain. Due to the highly obscured nature of the view that will be lost and its vulnerability the proposed development is considered acceptable and the view sharing reasonable.

Objective 3) To minimise loss of views, including accumulated view loss 'view creep' whilst recognising development may take place in accordance with the other provisions of this Plan.

Comment:

The proposal was assessed above in accordance with the Views Principle established by the NSW Land and Environment Court and was found to be satisfactory.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP 2013 and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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

Description of non-compliance

The Manly DCP 2013 permits a maximum wall height of 6.8m-6.9m and a maximum roof pitch of 35 degrees. The Manly DCP also specifies that a roof with a pitch greater than 35 degrees is to be included in the wall height calculation. The proposal has a roof pitch of 40 degrees and subsequently has a wall height of 7.35m-8.455m.

Merit consideration:

The Manly DCP 2013 does not contain objectives relating to this control but refers to the objectives of Clause 4.3 Height of Buildings of the Manly LEP 2013 as having particular relevance. With regard to the consideration for a variation, the development is considered against the relevant objectives as follows:

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

Comment

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The proposed roof form has been designed to ensure it retains the roof form and the heritage character of the existing building. The proposed first floor addition is adequately setback from the street to ensure it is not readily visible from the streetscape. The proposal is compliant with the building height control and is appropriately designed to retain the streetscape character in the locality.

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

Comment:

The proposal complies with the height of building and the floor space ratio development standard of the Manly LEP 2013. These development standards are designed to control the bulk and scale of development within the locality. Furthermore, the proposed attic style addition results in greater side boundary setbacks and a minimised bulk and scale. The proposal is not of an unreasonable bulk or scale in the locality.

(c) to minimise disruption to the following:

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

Comment

The proposal has been assessed with regard to the Views Planning Principle established by the NSW Land and Environment Court and was found to be satisfactory. For details see above assessment.

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

Comment

The attic style first floor addition incorporates good articulation and setbacks to ensure it does not result in any unreasonable overshadowing of the neighbouring properties. The proposal has been assessed with regard to the objectives of Clause 3.4.1 Sunlight Access and Overshadowing of the Manly DCP 2013 and was found to be satisfactory.

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

Comment

Not applicable.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP 2013 / MLEP 2013 and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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

Description of non-compliance

The Manly DCP 2013 requires a side setback of 1/3 of the wall height. The proposed south-west kitchen wall provides a 0.25m side setback.

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Merit consideration:

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

Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.

Comment:

The proposed non-compliance is set to the rear of the existing development and will not result in any unreasonable impact on the spatial proportions of the street.

Objective 2) To ensure and enhance local amenity by:

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

Comment:

The proposal will ensure the amenity within the locality for the following reasons:

- The proposed non-compliant wall contains no windows facing the side boundary and is located mostly below the existing fence level. The skylights in this part of the building are for light and will not result in any unreasonable overlooking. The proposed non-compliance will not result in any unreasonable impacts on privacy.
- The proposed non-compliant wall will not result in any additional overshadowing of the neighbouring properties.
- The proposal has been assessed in accordance with Clause 3.4.3 Maintenance of Views of the Manly DCP 2013 and the Views Planning Principle established by the NSW Land and Environment Court and was found to be satisfactory.
- The proposal will not disrupt any rhythm or pattern of spaces between buildings.
- The proposal will maintain safe and adequate traffic conditions within the locality.

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

Comment:

The proposed flexibility will not result in any unreasonable impacts on the amenity of the locality and is consistent with the objectives of the control.

Objective 4) To enhance and maintain natural features by:

- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native*

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vegetation and native trees;

- ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and
- ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.

Comment:

The proposal maintains adequate landscaped area on the site to ensure the landscape character of the locality is retained.

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

Comment:

Not applicable

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP 2013 and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

4.1.5 Open Space and Landscaping

Description of non-compliance

The Manly DCP 2013 requires 55% of the site area to be provided as total open space and 3 native trees, as specified, to be planted on the site. The proposal includes 49% of the site area as total open space and does not identify the species of trees to be planted.

Merit consideration:

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

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

Comment:

The proposal does not include the removal of any important landscape features or vegetation.

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

Comment:

The proposal provides far greater than required soft landscaped areas and Councils Landscape Officer has recommended a condition to require appropriate tree planting. The open space at ground level is adequate to service the dwelling.



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

Comment:

The proposal has been assessed above with regard to amenity and was found to maintain an appropriate level of amenity for the site, the streetscape and the surrounding area. It is noted the amended landscape plan was not amended to remove the feature tree on the north-eastern boundary. This tree is likely to result in unreasonable shadowing impacts to the neighbouring property. It is recommended this tree be deleted by way of condition.

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

Comment:

The proposed landscaped area is sufficient to maximise water infiltration on the site. Councils Stormwater Engineer has recommended appropriate conditions of consent to ensure stormwater is appropriately disposed of.

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

Comment:

The proposal will minimise the spread of weeds.

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

Comment:

The proposal includes sufficient landscaping to maximise wildlife habitat.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP 2013 and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

4.4.5 Earthworks (Excavation and Filling)

Description of non-compliance

The Manly DCP 2013 limits excavation to generally 1m with the exception of basement parking. The proposal includes excavation of up to 1.5m for the pedestrian and vehicle access.

Merit consideration:

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

Objective 1) To retain the existing landscape character and limit change to the topography and vegetation of the Manly Local Government Area by:



- Limiting excavation, "cut and fill" and other earthworks;
- Discouraging the alteration of the natural flow of ground and surface water;
- Ensuring that development not cause sedimentation to enter drainage lines (natural or otherwise) and waterways; and
- Limiting the height of retaining walls and encouraging the planting of native plant species to soften their impact.

Comment:

The proposal excavation will not significantly alter the topography of the locality. The proposal includes suitable landscaping to maintain the landscape character of the locality and soften the impact of retaining walls. The proposal was supported by a geotechnical assessment report that determined the proposal could be carried out without unreasonable impacts to the locality. The proposal is of a suitable design to retain the existing landscape character and limit the change to the topography.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP 2013 and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Manly Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

CONCLUSION

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

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

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



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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/0608 for Alterations and additions to a dwelling house on land at Lot 16 DP 77273, 16 Cliff Street, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Site Demolition and Bulk Excavation Plan Revision A	8/04/2018	Design Intent Pty Ltd
Existing and Demolition Ground Plan Revision A	9/04/2018	Design Intent Pty Ltd
Site Plan Revision B	18/06/2018	Design Intent Pty Ltd
Detail Site Plan Revision B	18/06/2018	Design Intent Pty Ltd
Lower Floor Plan Revision A	9/04/2018	Design Intent Pty Ltd
Ground Floor Plan Revision B	18/06/2018	Design Intent Pty Ltd
Upper Floor Plan Revision B	18/06/2018	Design Intent Pty Ltd
Streetscape Elevation Revision A	9/04/2018	Design Intent Pty Ltd
North East Elevation Revision B	18/06/2018	Design Intent Pty Ltd
South East Elevation Revision B	18/06/2018	Design Intent Pty Ltd
South West Elevation Revision B	18/06/2018	Design Intent Pty Ltd
Section B-B Revision B	18/06/2018	Design Intent Pty Ltd
Section Revision A	9/04/2018	Design Intent Pty Ltd



Reports / Documentation – All recommendations and requirements contained within:

Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate A313471	15 April 2018	Design Intent P/L
Geotechnical Assessment	14 June 2018	Douglas Partners

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

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
SLP01 Sketch Landscape Plan - Front - Revision A	22/03/2018	GoodManors
SLP02 Sketch Landscape Plan - Back - Revision A	22/03/2018	GoodManors

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

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

2. Amendments to the approved plans

The following amendments are to be made to the landscape plan SLP01 Sketch Landscape Plan - Back, dated 21/03/2018 prepared by GoodManors:

- o The feature tree on the north-eastern boundary is to be deleted.
- o The BBQ Area is to be deleted and a 600mm wide planter box is to be provided on the north eastern boundary in the location of the BBQ area.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land. (DACPLB02)

3. No Approval for Works Within Easement

No approval is granted under this Development Consent for any works within the easement adjacent to the north-eastern boundary.

Reason: To ensure compliance with this consent. (DACPLB04)

4. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).



- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)
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5. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
- i) Building/s that are to be erected



- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

FEES / CHARGES / CONTRIBUTIONS

6. Security Bond

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

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

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

7. **Stormwater Disposal**

Stormwater shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's MANLY SPECIFICATION FOR ON-SITE STORMWATER MANAGEMENT 2003. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with the Council's specification are to be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.

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

8. **Vehicle Crossings Application**

An application for Driveway levels shall be made with Council subject to the payment of fee applicable at the time of payment. The fee includes all Council inspections relating to the driveway construction and must be paid. Approval is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To facilitate suitable vehicular access to private property

9. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

10. **Sewer / Water Quickcheck**

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:
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- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

11. **Dilapidation Survey**

A photographic survey of adjoining property (being 18-20 Cliff Street, Manly) detailing the physical condition of those properties, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, SHALL BE submitted to Council/Accredited Certifier prior to the issue of a Construction Certificate. This survey is to be prepared by an appropriately qualified person.

On completion of the excavation and building works and prior to occupation of the building, a certificate prepared by the appropriately qualified person to the effect that no damage has resulted to adjoining premises, is to be provided to the Principal Certifying Authority.

If damage is identified by the appropriately qualified person which is considered to require rectification, the damage shall 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 a final Occupation Certificate being issued.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent. In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate, in writing, to the satisfaction of Council/Accredited Certifier that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

(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: Proper management of records. (DACPLCPCC1)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

12. **Public Liability Insurance - Works on Public Land**

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Warringah Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK



13. Vehicle Crossings

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

Reason: To facilitate suitable vehicular access to private property

14. Maintenance of Road Reserve

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety.

15. Maintenance of Sediment

Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.

Reason: To ensure sediment controls are effective

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

16. Reinstatement of Kerb

All redundant laybacks and vehicular crossings shall be reinstated to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To facilitate the preservation of on street parking spaces

17. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

18. Landscape Completion

24 (5LD01)

A qualified Landscape Consultant is to submit a Certificate of Practical Completion to the 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.

Additionally the proposed screen planting to the neighbours property as shown on SLP01
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(Viburnum) and SLP02 (Syzygium Australe) shall be planted no more than 750mm apart and installed as pot size of 45 litres.

The proposed feature trees shown on SLP01 and SLP02 are to be pot size 200 litres.

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

19. **Required Tree Planting**

3 (2LD03)

Details are to be provided of the existing or proposed native trees for the site which are typically expected to reach a height at maturity of 10 metres, to bring the proposal into compliance with Figure 37 of the Manly Development Control Plan 2013. A list of appropriate native trees for the Manly area may be obtained at Council's Customer Service desk and the Manly Council website. Details of new planting are to include appropriate siting and pot size (minimum of 25 litres) in accordance with section 2.1.3 of the Manly Development Control Plan 2013, and schedule 4, Part B, Native Tree Selection. Details are to be submitted with the Construction Certificate to the satisfaction of the Certifying Authority.

Reason: This is to ensure the planting of endemic trees back onto the site.

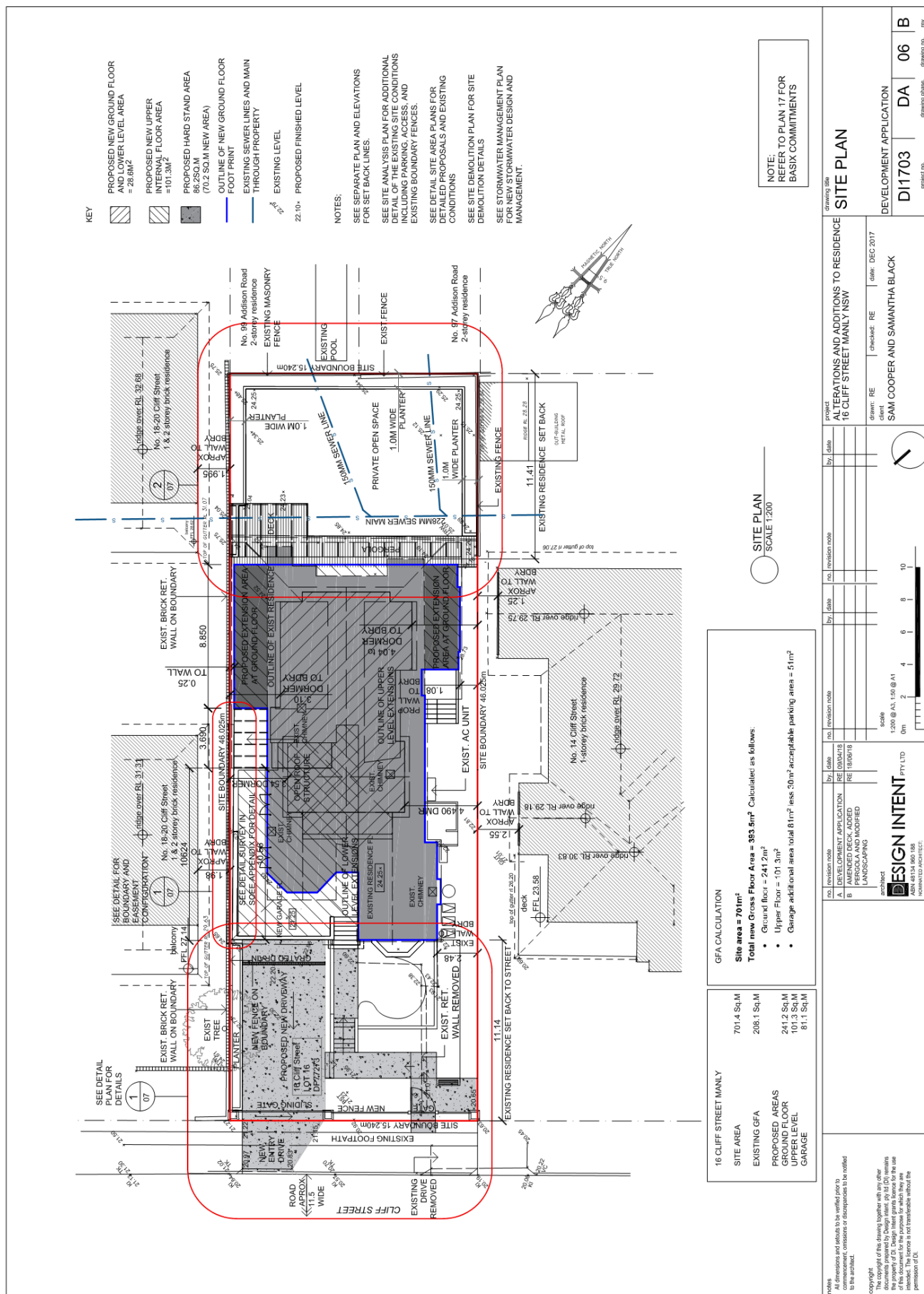
ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

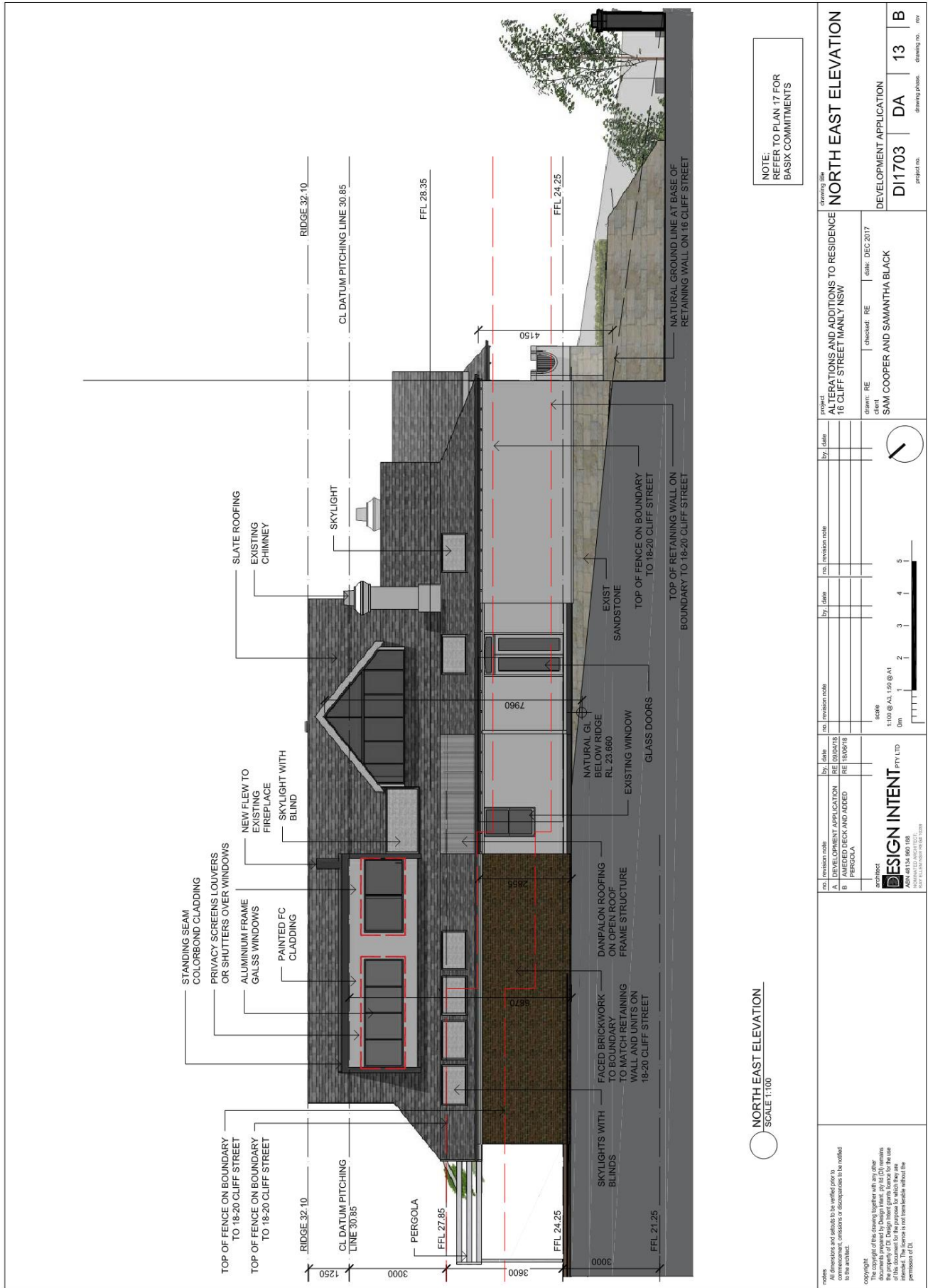
20. **Landscape maintenance**

25 (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 Certifying Authority prior to issue of the final Occupation Certificate.

Reason: To ensure landscaping will be appropriately maintained.







**NOTE:
REFER TO PLAN 17 FOR
BASIX COMMITMENTS**

[illegible]



ITEM 3.3	DA2018/0594 - 14 ABBOTT STREET, BALGOWLAH HEIGHTS - ALTERATIONS AND ADDITIONS TO THE EXISTING DWELLING HOUSE
REPORTING MANAGER	Rodney Piggott
TRIM FILE REF	2018/479247
ATTACHMENTS	1 ↓ Assessment Report 2 ↓ Site Plan and Elevations

PURPOSE

To refer the attached application for determination due to directions provided by the Department of Planning & Environment in relation to applications with a clause 4.6 variation to the floor space ratio standard.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority grant Development Consent to DA2018/0594 for Alterations and additions to the existing dwelling house on land at Lot 8 DP 18143, 14 Abbott Street, BALGOWLAH HEIGHTS, subject to the conditions outlined in the Assessment Report.



REPORT TO DEVELOPMENT DETERMINATION PANEL

Meeting held on 08 August 2018

14 Abbott Street Balgowlah Heights - Alterations and additions to the existing dwelling house.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/0594
Responsible Officer:	Maxwell Duncan
Land to be developed (Address):	Lot 8 DP 18143, 14 Abbott Street BALGOWLAH HEIGHTS NSW 2093
Proposed Development:	Alterations and additions to the existing dwelling house.
Zoning:	Manly LEP2013 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Development Determination Panel
Land and Environment Court Action:	No
Owner:	Camille Heather Clarke
Applicant:	Camille Heather Clarke
Application lodged:	16/04/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	18/04/2018 to 04/05/2018
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	Approval
Estimated Cost of Works:	\$ 206,800.00

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report)
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taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;

- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards

Manly Development Control Plan - 3.4.2 Privacy and Security

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

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

SITE DESCRIPTION

Property Description:	Lot 8 DP 18143 , 14 Abbott Street BALGOWLAH HEIGHTS NSW 2093
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Abbott Street and western side of Radio Avenue.</p> <p>The site is regular in shape with a frontage of 11.2m along Abbott Street and secondary frontage of 32.8m along Radio Avenue. The site has a surveyed area of 434.8m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates two storey dwelling house.</p> <p>Topographically the site is flat and has no mature or noteworthy landscaping throughout.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by residential development typically single and two storey dwelling houses.</p>

Map:



SITE HISTORY

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

DA134/2005- Swimming pool and rain water system (Approved 13 May 2005).

DA669/2001- S96 modification to alterations and additions to the existing dwelling (Approved 14 July 2005).

DA669/2001- Alterations and additions to the existing dwelling (Approved 30 September 2002).

DA575/2000- Garage and carport and fencing and laundry (Approved 28 March 2001).

PROPOSED DEVELOPMENT IN DETAIL

The proposal is for alterations and additions to the existing dwelling house including:

Level 1

- Enclosure of existing east facing terrace to allow for new bedroom.
- Extension of bedroom 2.

Level 2

- Extension of south facing terrace.
- New skylight.
- New roof over enclosure level 1 terrace.

Other

- Extension of roof awning on level 2.
- Connection of stormwater downpipes to existing system.



In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p>



Section 4.15 Matters for Consideration'	Comments
	<p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p>Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

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

MEDIATION



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

REFERRALS

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

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

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

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

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A305605 dated 23 March 2018).

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

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.



Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	9.3m	9.4%	No
Floor Space Ratio	FSR: 0.5:1 217.4m ² FSR: 0.528:1 229.7m ² (Approved under DA669/2001)	FSR: 0.56:1 246.7m ²	13.4% variation to the standard. (7.4% variation to the approved DA669/2001) (5.6% variation under DA669/2001)	No

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No
4.4 Floor space ratio	No
4.6 Exceptions to development standards	Yes
6.1 Acid sulfate soils	Yes
6.4 Stormwater management	Yes
6.12 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

The following assessment of the variation to Clause 4.3 - development standard has taken into consideration the questions established in Winten Property Group Limited v North Sydney Council (2001) NSW LEC 46.

Requirement:	8.5m
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Proposed:	9.3m
Is the planning control in question a development standard?	YES
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical
If numerical enter a % variation to requirement	9.4%

The proposal must satisfy the objectives of Clause 4.3 – Height of Buildings , the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the MLEP 2013. The assessment is detailed as follows:

Is the planning control in question a development standard?

The prescribed Height of buildings limitation pursuant to Clause 4.3 of the MLEP 2013 is a development standard.

What are the underlying objectives of the development standard?

The underlying objectives of the standard, pursuant to Clause 4.3 – ‘Height of buildings’ of the MLEP 2013 are:

(1) The objectives of this clause are as follows:

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

Comment:

The proposed works match the existing building height for the site at 9.3m, the works are within the existing building footprint. The proposed non-compliance relates to new skylight and roof on level 2.

At street level, the proposal will appear as consistent in terms of height and bulk within the streetscape. The proposed non-compliance is consistent with both the front and secondary frontage setbacks, maintaining the prevailing building line of Abbott Street.

In this regard, the proposed building height is consistent with the topographic landscape and the prevailing building height within the sites vicinity.

b) to control the bulk and scale of buildings,

Comment:

The overall scale and height of the dwelling house is consistent with the surrounding and nearby development located within the R2 Low Density Residential zone and will be consistent with the height of dwellings that adjoin the site to the east and west (including Nos.10, 12, 16 and 18 Abbott Street).

c) to minimise disruption to the following:

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

(ii) views from nearby residential development to public spaces (including the



harbour and foreshores),
(iii) views between public spaces (including the harbour and foreshores),

Comment:

No views from residential development in the vicinity of the subject site will be unreasonably impacted by the proposed works.

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

Comment:

The solar impacts of this aspect of the development are minimal and acceptable in terms of their impacts on habitable rooms of the adjoining dwellings.

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

Comment:

The subject site is not located in a recreation or environmental protection zone.

What are the underlying objectives of the zone?

In assessing the developments the non-compliance, consideration must be given to its consistency with the underlying objectives of the R2 Low Density Residential zone.

The underlying objectives of the R2 Low Density Residential zone:

- *To provide for the housing needs of the community within a low density residential environment.*

Comment:

The proposed development is for alterations and addition to a existing dwelling house

It is considered that the development satisfies this objective.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

Not applicable. The proposed development retains the existing residential use of the site.

It is considered that the development satisfies this objective.



Is the variation to the development standard consistent with the objectives of Clause 4.6 of the MLEP 2013?

(1) The objectives of this clause are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development.

Comment:

In this circumstance, flexibility is afforded in this situation as the building height would not cause any unreasonable amenity impacts and the development would contribute to providing housing needs for the community, as is consistent with the objectives of the zone under the Manly LEP, 2013.

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Comment:

The proposed building height is a satisfactory outcome as the existing amenity is not unreasonably impacted and the bulk and scale remains consistent with other development in the street.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

The applicant's written request outlines the reasons as to why compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development and provides the following environmental planning justification for the contravention of the development standard as follows:

"How is strict compliance with the development standard unreasonable or unnecessary?
The variation to the height of buildings development standard is acceptable in the circumstances of the case, and

- *The portion of the new work to the dwelling exceeding the 8.5m height.*
- *The offending portion is only 5.5m² of pergola structure, and locate*

Are there sufficient environmental planning grounds to justify contravening the development standard?



The proposal presents a variation to the height of buildings development standard contained in the R2 Low Density Residential Zone.

The design does not impact on amenity and views from adjoining neighbours or the public domain.

The offending portion is only 5.5m² of pergola structure, and located centrally over the eave.

The variation to the building height standard does not attempt to affect the planning outcome.

In light of the above it is hoped the consent authority will see the application to vary the standard as being in the public interest.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

Comment:

The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3).

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Comment:

For reasons detailed above, the proposal is considered to be consistent with the objectives of the R2 Low Density residential zone in the MLEP 2013.

(b) the concurrence of the Director-General has been obtained

Comment:

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument where the variation to a numerical standard is not greater than 10%. Following the release of PS18-003, Council received correspondence from a delegate of the Secretary which granted Council staff, for 12 months from 1 March 2018, the ability to assume the Secretary's concurrence for Class 1 buildings which seek to vary the building height standard by more than 10%.

As the development does not vary a development standard by more than 10% the concurrence of the Secretary may be assumed.

The following assessment of the variation to Clause 4.4 - Floor Space Ratio development standard has taken into consideration the questions established in *Winten Property Group Limited v North Sydney Council* (2001) NSW LEC 46.



Requirement:	FSR: 0.5:1 217.4m ² FSR: 0.528:1 229.7m ² (Approved under DA669/2001)
Proposed:	FSR: 0.56:1 246.7m ²
Is the planning control in question a development standard?	YES
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical
If numerical enter a % variation to requirement	13.4% total variation to the standard. 5.6% existing variation to the standard

The proposal must satisfy the objectives of 4.4 Floor Space Ratio, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the MLEP 2013. The assessment is detailed as follows:

Is the planning control in question a development standard?

The prescribed Floor space ratio limitation pursuant to Clause 4.4 of the MLEP 2013 is a development standard.

What are the underlying objectives of the development standard?

The underlying objectives of the standard, pursuant to Clause 4.4 – 'Floor space ratio' of the MLEP 2013 are:

(1) The objectives of this clause are as follows:

a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,

Comment:

The proposed increase in gross floor area is within the existing building footprint, which as existing is consistent with the streetscape character.

b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,

Comment:

The bulk and scale of the proposed development will not result in any unreasonable

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privacy, overshadowing or amenity impacts. Additionally, the dwelling as proposed responds aptly to site constraints and will not impact upon views towards Middle Harbour.

c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,

Comment:

The proposed development is of high quality design that is not out of character within the existing low density residential development within the vicinity of the site.

d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,

Comment:

Despite increased gross floor area the proposed development will not result in any unreasonable amenity impacts on adjoining properties or the public domain. The proposal has been designed so as to have new windows facing away from the adjoining dwelling houses and to allow for valued views of Middle Harbour from adjoining properties to be maintained.

e) to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.

Comment:

The subject site is not located in a bush fire asset protection zone.

What are the underlying objectives of the zone?

In assessing the developments the non-compliance, consideration must be given to its consistency with the underlying objectives of the R2 Low Density Residential zone.

The underlying objectives of the R2 Low Density Residential zone:

- *To provide for the housing needs of the community within a low density residential environment.*

Comment:

The proposed development is for alterations and addition to a existing dwelling house

It is considered that the development satisfies this objective.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

Not applicable. The proposed development retains the existing residential use of the site.

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It is considered that the development satisfies this objective.

Is the variation to the development standard consistent with the objectives of Clause 4.6 of the MLEP 2013?

(1) The objectives of this clause are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development.

Comment:

In this circumstance, a degree of flexibility is considered to be appropriate as the proposal would not cause any unreasonable amenity impact and the development would not have a negative impact on the nearby foreshore, as well as being consistent with the objectives of the zone under the Manly LEP 2013.

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Comment:

The proposed development is considered a good outcome as amenity is not unreasonably impacted and the bulk and scale remains consistent within the streetscape.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

The Applicants written request outlines the reasons as to why compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development and that there are sufficient environmental planning grounds to justify contravening the development standard as follows:

"How is strict compliance with the development standard unreasonable or u.

The variation to the FSR development standard is acceptable in the circumstance.



- The proposed form and scale including the alterations and additions is compatible with the scale and design of surrounding dwellings in Abbott Street and Radio Avenue. The additional floor area is within the existing building footprint and designed to integrate with the existing building form. This will mitigate the appearance of the proposed addition when viewed from the street and adjoining properties.
- The additional floor area will not impact on views from the adjoining properties or public domain.
- The additional floor area will not result in additional unreasonable amenity impacts regarding overshadowing or privacy impacts.
- The additional floor area has been designed to improve the residential amenity of the dwelling with the additional floor area providing greater flexibility for a growing family and to improve the internal health and amenity of the occupants by correcting building defects while mitigating risks for future defects, in particular water ingress.
- The grounds for variation to the FSR control contained in this application confirm that achieving compliance with the control is unreasonable in the circumstances as the underlying objectives of the controls are achieved.

Are there sufficient environmental planning grounds to justify contravening

The proposed alterations and additions to the dwelling result in a variation to the F

The proposed additional floor area is integrated within the footprint of the existing

Further, the proposed additional floor area does not result in unreasonable amenit

The variation to the FSR standard does not attempt to affect the planning outcom

In light of the above it is hoped the consent authority will see the application to var

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

Comment:

Subclause 3 has been adequately addressed.

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Comment:

For reasons detailed above, the proposal is considered to be consistent with the objectives



of the R2 Low Density Residential zone in the MLEP 2013.

(b) the concurrence of the Director-General has been obtained

Comment:

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument where the variation to a numerical standard is not greater than 10%. Following the release of PS18-003, Council received correspondence from a delegate of the Secretary which granted Council staff, for 12 months from 1 March 2018, the ability to assume the Secretary's concurrence for Class 1 buildings which seek to vary the building height standard by more than 10%.

As the development varies development standard by more than 10% the concurrence of the Secretary is assumed subject to determination through Councils Development Determination Panel.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 434.8m ²	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	North: 6.5m	6.68m	2.7%	No
	East: 6.5m	6.8m	4.6%	No
4.1.2.3 Roof Height	Height: 2.5m	0.3m	N/A	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	7.3m, consistent with prevailing setback	N/A	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	2.26m (Secondary street frontage (corner allotment)	1.75m	23%	No
	Windows: 3m	1.8m (bedroom 3)	40%	No
4.1.4.4 Rear Setbacks	8m	14m (measured from end of bed 5)	N/A	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% (239.14sqm) of site area	58.3% 253.6sqm	N/A	Yes
	Open space above ground 25% (63.4sqm) of total open space	21% 55.5sqm		
4.1.5.2 Landscaped Area	Landscaped area 35% (88.76sqm) of open space	44% 111.9sqm	N/A	Yes
4.1.5.3 Private Open Space	18m per dwelling	Xsqm	N/A	Yes

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



Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.8 Waste Management	Yes	Yes
4.1 Residential Development Controls	No	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes

Detailed Assessment

3.4.2 Privacy and Security

Merit consideration:

The development is considered against the underlying Objectives of the Control as follows:

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

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

Comment:

The existing terrace on level 2 of the subject site is proposed to be extended an additional 1.38m towards the front boundary (south). As a result, the proposed terrace will be forward of the established building line to the east of subject site (including Nos. 16, 18 and 20 Abbott Street). While the extension will result in a greater intensification of use, the increase is not considered unreasonable. The extension does not create a potential new vantage point for a direct view to the adjoining western property that would be considered substantial..

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

Comment:



The proposed enclosure of the existing south facing balcony and partial enclosure of the east facing terrace on level 1 of the dwelling will increase gross floor area while not unreasonably increasing privacy impacts. The enclosure of both the areas will reduce the potential for overlooking between properties. New bay windows proposed to the eastern wall allow for sunlight to penetrate bedroom 5, while the southern end of bedroom 2 has included windows facing the street that allow for sunlight access to the bedroom.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The subject site retains an open frontage to allow for passive surveillance.

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

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

This Clause relies upon the objectives of Clause 4.3 under MLEP 2013. An assessment of the proposal against the objectives of Clause 4.3 has been provided within this report. This assessment has found the proposal to be consistent with the objectives of Clause 4.3 and the variation to the wall height control supported in this instance.

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

Description of non-compliance

Clause 4.1.4.2 of the MDCP 2013 requires that the side setbacks (including corner allotment secondary frontage) for residential dwellings must not be less than one third of the height of the adjacent external wall equal to 2.26m for the secondary frontage. The proposed works have a side setback of 1.75m (23% variation), non-compliant with the numerical control.

Additionally the MDCP 2013 requires that windows be setback at least 3m from side boundaries. The proposed new windows are setback 1.8m (40% variation) from bedroom 3, non-compliant with the numeric control.

Merit consideration:

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

Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.

Comment:

There is no increase to the existing building footprint. The proposed setback is consistent with existing side setbacks. The development remains a compliant figure within the streetscape.

Objective 2) To ensure and enhance local amenity by:

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

Comment:

The proposal provides appropriate locations and design of new windows to ensure an appropriate outcome for privacy.

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

Comment:

The proposed flexibility is appropriate in this situation.

Objective 4) To enhance and maintain natural features by:

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

Comment:

There is no change to landscaped open space proposed. Existing planting is suitable for the site.

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

Comment:

The subject site is not located in a bush fire asset protection zone.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Manly Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/0594 for Alterations and additions to the existing dwelling house, on land at Lot 8 DP 18143, 14 Abbott Street, BALGOWLAH HEIGHTS, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

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a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA02/ Ground floor	22 March 2018	Wolski- Coppin Architects
DA03/ Level 1	22 March 2018	Wolski-Copping Architects
DA04/ Level 2	22 March 2018	Wolski-Copping Architects
DA05/ Roof Site Plan	22 March 2018	Wolski-Copping Architects
DA06/ Section A1 and A2	22 March 2018	Wolski-Copping Architects
DA07/ Elevation 01	22 March 2018	Wolski-Copping Architects
DA08/ Elevations 02	22 March 2018	Wolski-Copping Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX certificate number: A305605	23 March 2018	Senica Consultancy Group

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

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

2. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

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- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)

3. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.



(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable



cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

FEES / CHARGES / CONTRIBUTIONS

4. **Security Bond**

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

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

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION



CERTIFICATE

5. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

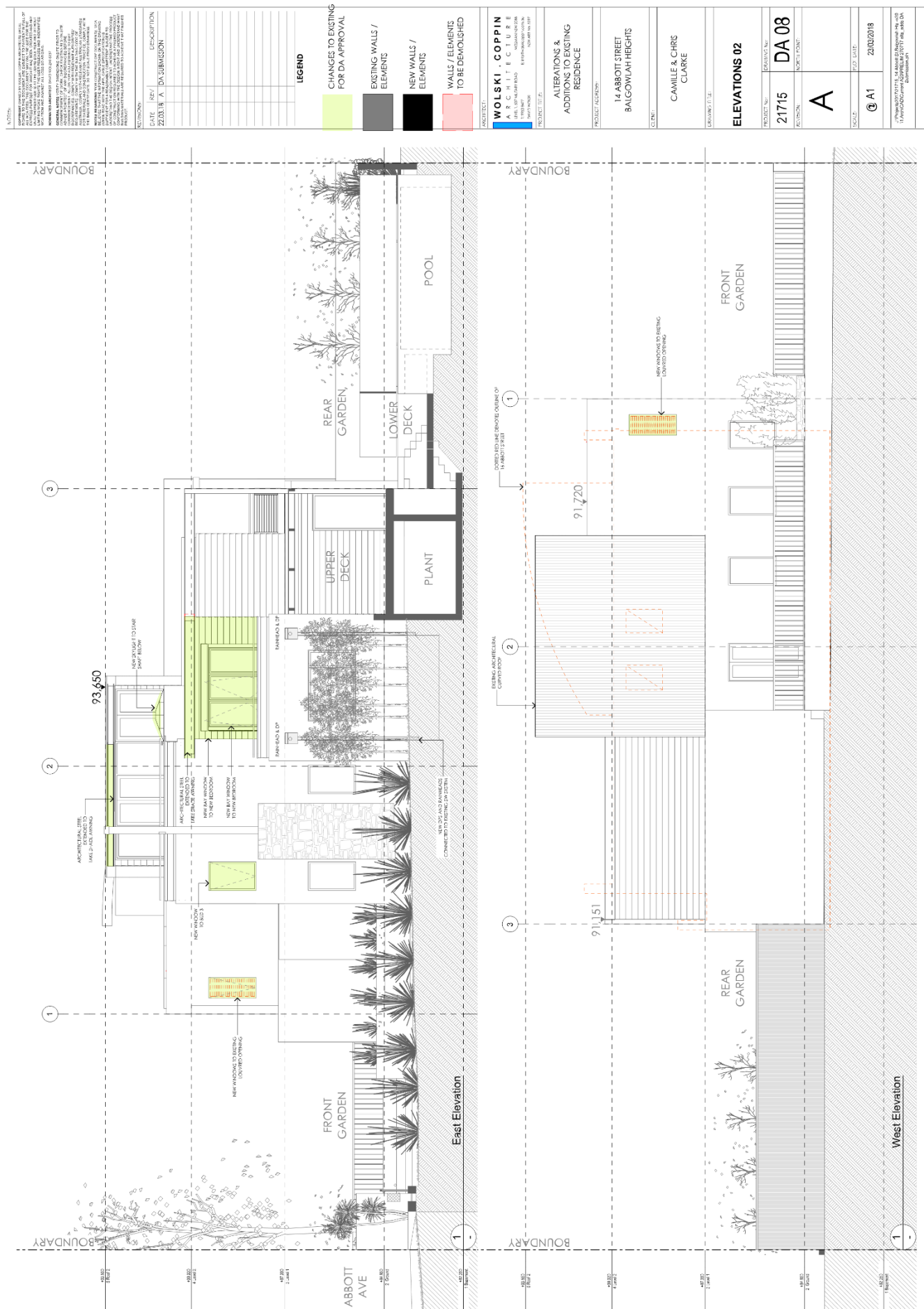
6. **Stormwater Disposal**

Stormwater shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's MANLY SPECIFICATION FOR ON-SITE STORMWATER MANAGEMENT 2003 Details demonstrating that the existing approved system can accommodate the additional flows or compliance with the Council's specification are to be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from development. (DACPLCPCC1)



[illegible]



ITEM 3.4	DA2018/0788 - 15 GRIFFITHS STREET, FAIRLIGHT - ALTERATIONS AND ADDITIONS TO THE EXISTING BUILDING
REPORTING MANAGER	Rodney Piggott
TRIM FILE REF	2018/479273
ATTACHMENTS	1 ↓ Assessment Report 2 ↓ Site Plan and Elevations

PURPOSE

To refer the attached application for determination due to directions provided by the Department of Planning & Environment in relation to applications with a clause 4.6 variation to the floor space ratio standard.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority grant Development Consent to DA2018/0788 for Alterations and additions to the existing building on land at Lot 5 DP 978699, 15 Griffiths Street, FAIRLIGHT, subject to the conditions outlined in the Assessment Report.



REPORT TO DEVELOPMENT DETERMINATION PANEL

Meeting held on 08 August 2018

15 Griffiths Street Fairlight - Alterations and additions to the existing building

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/0788
Responsible Officer:	Maxwell Duncan
Land to be developed (Address):	Lot 5 DP 978699, 15 Griffiths Street FAIRLIGHT NSW 2094
Proposed Development:	Alterations and additions to the existing building
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Development Determination Panel
Land and Environment Court Action:	No
Owner:	Peter Carver Riches Vini Tove Riches
Applicant:	Scanbal & Son Pty Ltd
Application lodged:	15/05/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	01/06/2018 to 18/06/2018
Advertised:	Not Advertised
Submissions Received:	1
Recommendation:	Approval
Estimated Cost of Works:	\$ 223,575.00

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report)
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taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;

- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards

Manly Development Control Plan - 3.1.1 Streetscape (Residential areas)

Manly Development Control Plan - 3.4.2 Privacy and Security

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

Manly Development Control Plan - 4.1.5 Open Space and Landscaping

Manly Development Control Plan - 4.1.10 Fencing

SITE DESCRIPTION

Property Description:	Lot 5 DP 978699 , 15 Griffiths Street FAIRLIGHT NSW 2094
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of Griffiths Street.</p> <p>The site is regular in shape with a frontage of 7.7m along Griffiths Street, a secondary frontage of 7.7m to Union Lane and depth of 26.5m. The site has a surveyed area of 205m².</p> <p>The site is located within the R1 General Residential zone and accommodates a attached dwelling.</p> <p>The site slopes down from the south-east to the north-west corner of the property approximately 2.7m.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by residential development typically single and two storey detached dwelling houses.</p>

Map:



SITE HISTORY

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

DA323/2003- New carport (Approved).

DA338/2002- Additions to the dwelling house including first floor addition (Approved).

PROPOSED DEVELOPMENT IN DETAIL

The proposed works include alterations and additions to the existing building incorporating:

Ground Floor

- Ground floor extension.
- New outdoor terrace.
- Internal terrace.
- New east facing windows and door.

First Floor

- First floor extension
- Internal alterations
- New windows

Other

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- New Carport.
- Front Picket fence
- Landscaping.
- Privacy screen on western boundary.
- Entry stairs.
- Porch balustrade.
- Rear entry gate

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development).</p>

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Section 4.15 Matters for Consideration'	Comments
	<p>This matter has been addressed via a condition of consent. / This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED



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

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Mr Raymond Joseph Blewitt	9 Charles Street FAIRLIGHT NSW 2094

A submission from the adjoining eastern property (No. 13 Griffiths Street) was received as part of this application. The issues brought up as part of this submission have since been resolved between both the objector and applicant. As such, the submission has been withdrawn in writing by the objector.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The landscape component of the proposal is acceptable, subject to completion of the proposed landscaping and protection of existing vegetation.
NECC (Development Engineering)	Development Engineer has no objection to the application subject to the following conditions of consent.
Strategic & Place Planning (Heritage Officer)	Further to a review of the available documents and site visit, The site of proposed development is a listed heritage item in its own right, and it is located in the vicinity of heritage items, notably including houses adjoining on both sides. The subject house is semi-detached, and both semis appear to have same street number (15). It is noted that the other semi-detached house has already constructed closely similar additions to the rear, visible from the rear lane. Given this, the impact on heritage values is assessed as acceptable and based on the above, I have no objections to this proposal from heritage perspective. Kind Regards Zoran Popovic heritage adviser
External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

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

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

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

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A313115).

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

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Manly Local Environmental Plan 2013

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



Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	6.7m	N/A	Yes
Floor Space Ratio	FSR: 0.6:1 123m ²	FSR: 0.72:1 147m ²	19.5%	No

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.6 Exceptions to development standards	Yes
5.8 Conversion of fire alarms	Yes
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.4 Stormwater management	Yes
6.12 Essential services	Yes
Schedule 5 Environmental heritage	Yes

Detailed Assessment

4.6 Exceptions to development standards

The following assessment of the variation to Clause 4.4- Floor Space Ratio development standard has taken into consideration the questions established in Winten Property Group Limited v North Sydney Council (2001) NSW LEC 46.

Requirement:	FSR: 0.6:1 123m ²
Proposed:	FSR: 0.72:1 147m ²
Is the planning control in question a development standard?	YES
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical
If numerical enter a % variation to requirement	19.5%

The proposal must satisfy the objectives of 4.4 Floor Space Ratios, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the MLEP 2013. The assessment is detailed as follows:

Is the planning control in question a development standard?

The prescribed Floor space ratio limitation pursuant to Clause 4.4 of the MLEP 2013 is a development standard.

What are the underlying objectives of the development standard?

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The underlying objectives of the standard, pursuant to Clause 4.4 – 'Floor space ratio' of the MLEP 2013 are:

(1) The objectives of this clause are as follows:

a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,

Comment:

The proposed works result in a modest redevelopment on an existing heritage item. The proposed increase in bulk in scale viewed from the street will not be visible, nor will it take away from any heritage significance of the site. The proposal is consistent with the desired and existing spatial proportions of the street in terms of building height, open space and setback and overall bulk and scale. It is further noted that the subject site is an undersized lot being 205sqm in an area with minimum lot size of 250sqm. The proposed gross floor area is consistent with the DCP 4.1.3.1 control relating to Floor Space Ratio for undersized lots.

b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,

Comment:

The proposed non-compliance of gross floor area is a result of the extension of the ground and first floor, which . The works will not obscure any important landscape features on site.

c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,

Comment:

The proposal includes a minor extension to the ground and first floor, maintaining the existing side and front setbacks consistent with the bulk and scale of the existing development when viewed from the street. As such, the proposal does not result in an unreasonable visual impact on the natural environment. There is no change to the front heritage facade of the dwelling house when viewed from the street.

d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,

Comment:

The proposed development will not result in any unreasonable amenity impacts on adjoining properties in regards to views, privacy or overshadowing.

e) to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.

Comment:

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Not applicable.

What are the underlying objectives of the zone?

In assessing the developments the non-compliance, consideration must be given to its consistency with the underlying objectives of the R1 General Residential zone.

The underlying objectives of the R1 General Residential zone:

- *To provide for the housing needs of the community within a low density residential environment.*

Comment:

The proposal will not affect the housing needs of the community.

It is considered that the development satisfies this objective.

- *To provide for a variety of housing types and densities*

Comment:

The proposal maintains housing variety within the residential area.

It is considered that the development satisfies this objective.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

Existing residential use remains unchanged.

It is considered that the development satisfies this objective.

Is the variation to the development standard consistent with the objectives of Clause 4.6 of the MLEP 2013?

(1) The objectives of this clause are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development.

Comment:

The proposed development provides for an appropriate level of flexibility in applying the Floor Space Ratio development standard.

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.



Comment:

The proposed variation to the Floor Space Ratio allows for an outcome restrict habitable and outdoor living space in a relatively dense area, thereby creating an improved outcome for the site, while retaining the existing residential use and reasonable levels of amenity for adjoining properties.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

The applicant's written request outlines the reasons as to why compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development and provides the following environmental planning justification for the contravention of the development standard as follows:

"The floor space ratio of the land is shown on the floor space ratio map to be 0.6:1. The site area is 205m². This equates to a maximum floor space of 123m². The proposed floor space is 147m², a variation of 19.5%.

It is considered that the proposed overall size of the development proposal meets the objectives o

- *The bulk and scale of the development is consistent with the existing and desired streetscape character, which is essentially a mix of two storey and single storey dwellings. The bulk and scale of the proposed development is less than the neighbouring dwelling at 13 Griffiths Street.*
- *The ground floor and first floor additions are at the rear of the building maintaining the single storey appearance of the cottage from the street.*
- *The proposed addition to the first floor will not obscure any important landscape and townscape features and will not have a negative impact on the public domain.*
- *The proposed alterations and additions will maintain an appropriate visual relationship with the existing character and landscape of the area as the attached dwelling maintains its existing front setback at the ground floor and the first floor. There will be improvements to the existing façade and porch.*
- *It is considered that the bulk and scale of the proposed alterations and additions will not have an adverse environmental impact on the use and enjoyment of the adjoining properties in regard to privacy or solar access.*

It is considered that the proposed overall size of the development meets the objectives of the R1 (



- Improves the amenity of the existing dwelling to meet the needs of the occupants.
- Increases the size of the dwelling while maintaining the character and scale of the building in relation to neighbouring properties.

As the proposal is for a modest addition to a family home it is considered that to refuse the develop

- *is unreasonable and unnecessary as the proposal meets the objectives of Clause 4.4 of the Manly LEP 2013 and the objectives of the R1 General Residential Zone and is therefore in the public interest.*
- *does not raise any matters of State or regional significance for environmental planning.*
- *achieves a better planning outcome as it improves the amenity of the dwelling house for the occupants while improving the appearance of the building from the public domain."*

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

Comment:

The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3).

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Comment:

For reasons detailed above, the proposal is considered to be consistent with the objectives of the R1 General Residential zone in the MLEP 2013.

(b) the concurrence of the Director-General has been obtained

Comment:

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument where the variation to a numerical standard is not greater than 10%. Following the release of PS18-003, Council received correspondence from a delegate of the Secretary which granted Council staff, for 12 months from 1 March 2018, the ability to assume the Secretary's concurrence for Class 1 buildings which seek to vary the building height standard by more than 10%.

As the development varies development standard by more than 10% the concurrence of
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the Secretary is assumed subject to determination through Councils Development Determination Panel.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 205m ²	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	East: 6.7m (based on gradient 1:30)	6.5m	N/A	Yes
4.1.2.2 Number of Storeys	2	2	N/A	Yes
4.1.2.3 Roof Height	Height: 2.5m	0.63m	N/A	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	2m (Primary), consistent with prevailing setback	66%	No
		0m (secondary), consistent with prevailing setback (carport)	100%	No
		6.65m (secondary), consistent with prevailing setback (deck)	N/A	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	2.16m (based on wall height)	0.9m	58%	No
	Windows: 3m	0.9m	70%	No
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% (112.75m ²) of site area	41% (85m ²)	25%	No
4.1.5.2 Landscaped Area	Landscaped area 35% (30m ²) of open space	47% (40m ²)	N/A	Yes
	1 native trees	1 trees	N/A	Yes
4.1.5.3 Private Open Space	18sqm per dwelling	85sqm	N/A	Yes
4.1.10 Fencing	1m or 1.5m with 30% transparency	1.75m	75%	No
Schedule 3 Parking and Access	Dwelling 2 spaces	1 space (As existing, no change proposed)	N/A	N/A

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
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Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
4.1 Residential Development Controls	No	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.10 Fencing	No	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes

Detailed Assessment

3.1.1 Streetscape (Residential areas)

Description of non-compliance

Clause 4.1.10 requires Freestanding walls and fences between the front street boundary and the building are to be no more than 1m high above ground level at any point or up to 1.5m where at least 30 percent of the fence is open/ transparent for at least that part of the fence higher than 1m. The proposed fence for this application is 1.75m above ground level at its highest point, non-compliant with the numeric control.

Merit consideration:

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

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

Comment:

The height of the proposed front fence is offset by planting within the front setback of the property. The proposed fence does not detract from the historic style of the building and character of the streetscape,

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consistent with clause 3.2.3 (Fences for Heritage Items and Conservation Areas) of the Manly DCP. The sandstone element of the front fence is retained as part of the proposed works.

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

Comment:

The proposed height and type of front fence proposed is complements the existing streetscape. No. 13 Griffiths Street the adjoining property to the east has a picket fence to a height matching the proposed fence. No. 17 Griffiths to the west of the subject site has front fence significantly higher than what is proposed in this application. The proposed front fence improves on the existing streetscape by proposing a fence with significant transparency at a height complementary to the streetscape. The height of the fence is further offset by landscape features proposed immediately behind the front fence.

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

Comment:

Not applicable.

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

3.4.2 Privacy and Security

Merit consideration:

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

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

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

Comment:

The proposed east facing windows (labelled as W06 and W02) do not overlook the adjoining property (No. 13 Griffiths Street). Both of the new windows are frosted, ensuring there is no potential for a direct view to living room windows or private open space between properties.

The outdoor living area to the rear of the property is at ground level and setback 0.7m from the adjoining eastern property (No. 13 Griffiths Street) to ensure reasonable levels of privacy (acoustic and visual). There is no potential for direct overlooking between adjoining properties.

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

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Comment:

New windows on the eastern side of the subject dwelling allow for increased sunlight to penetrate the adjoining rooms (bathroom, laundry and stairs) while mitigating direct viewing through the use of frosted windows.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The proposal retains an open frontage to allow for passive surveillance.

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

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

Description of non-compliance

Clause 4.1.4.2 of the MDCP 2013 requires that the side setbacks for residential dwellings must not be less than one third of the height of the adjacent external wall equal to 2.16m for the eastern side setback. The development proposes a side setback of 0.9m (70% variation) for the eastern side and 0m (100% variation) for the western side, non-compliant with the numeric control.

The proposed house is setback 2m from the primary frontage (Griffiths Street) and the proposed carport to the rear of the property has a nil setback to the secondary frontage (Union Lane). The proposal is consistent with the prevailing building line across both Griffiths Street and Union Lane, and is assessed against the underlying objectives below.

Merit consideration:

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

Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.

Comment:

The proposed ground and first floor extension will not be visible from Griffiths Street. While the additional built form of the house will be visible from the Union Lane, the setback provided between the dwelling house and the secondary frontage is adequate.

In regards to the carport, the bulk and scale of the carport is consistent with other parking structures within the service lane (including Nos. 13, 17 and 19 Union Lane).

Objective 2) To ensure and enhance local amenity by:

- *providing privacy;*

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

Comment:

Reasonable levels of privacy are maintained as part of these works. The east facing windows which cause window setback non-compliance are frosted to avoid direct viewing between windows of adjoining properties. The proposed ground and first floor extension and new carport will not result in substantial overshadowing of adjoining properties.

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

Comment:

Flexibility is allowed in this situation as the subject site is an undersized lots and the proposed works will not result in unreasonable impacts upon amenity (Privacy and overshadowing).

Objective 4) To enhance and maintain natural features by:

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

Comment:

The proposed development has included planting along the front and rear (Union Lane) and eastern side of the subject site to help offset the built form of the dwelling house. The existing tree to the front of the subject site is to be retained as part of this proposal.

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

Comment:

The subject site is not located in a bush fire asset protection zone.

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

4.1.5 Open Space and Landscaping



Description of non-compliance

Clause 4.1.5.1 of the Manly DCP requires at least 55% (112.75m²) of site area be total open space. The application proposes 41% (85m²) total open space, a variation of 25% to the numeric control.

Merit consideration:

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

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

Comment:

There is no reduction of any important existing landscape features on site.

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

Comment:

New planting is proposed to the front, rear and eastern side of the dwelling to offset the bulk and scale of the dwelling.

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

Comment:

The proposed development will not result in any unreasonable amenity impacts on adjoining properties in regards to views, privacy or overshadowing.

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

Comment:

The proposal retains reasonable levels of landscaped open space at ground level to the front and rear of the dwelling to minimise the stormwater runoff that may result from the proposed development.

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

Comment:

The proposed works will not lead to an increased spread of weeds.

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

Comment:

The subject site is not in the vicinity of any important wildlife corridors.



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

4.1.10 Fencing

See comments related to streetscape (Part 3.1 of the Manly DCP) in this report.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Manly Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

CONCLUSION

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

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

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

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

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



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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/0788 for Alterations and additions to the existing building on land at Lot 5 DP 978699, 15 Griffiths Street, FAIRLIGHT, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA 01/ Site Analysis Plan	1 May 2018	Hobbs and Jamieson
DA 02/ Demolition Plan	1 May 2018	Hobbs and Jamieson
DA 03/ Site and Roof Plan	1 May 2018	Hobbs and Jamieson
DA 04/ Ground Floor Plan	1 May 2018	Hobbs and Jamieson
DA 05/ First Floor Plan	1 May 2018	Hobbs and Jamieson
DA 06/ Section A	1 May 2018	Hobbs and Jamieson
DA 07/ North and South Elevation	1 May 2018	Hobbs and Jamieson
DA 08/ East Elevation	1 May 2018	Hobbs and Jamieson

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate number: A313115	11 April 2018	Efficient Living

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

Landscape Plans		
Drawing No.	Dated	Prepared By
L-01 Landscape Plan	Revision B/ 23 April 2018	Space Landscape Designs

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

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)



2. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.



In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)

3. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.



- (j) Prior to the commencement of any development onsite for:
- i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished
- The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

FEES / CHARGES / CONTRIBUTIONS

4. Security Bond

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a

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result of construction or the transportation of materials and equipment to and from the development site.

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

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

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

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

5. **Stormwater Disposal**

Engineering Plans certified by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to Griffiths Street. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

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

6. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

7. **Tree Protection**

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.

8. **Tree Protection 2**

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.



(DACLADPC1)

9. Tree Protection Measures

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.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

10. Maintenance of Road Reserve

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety.

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

11. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

12. Landscape Completion

A qualified Landscape Consultant is to submit a Certificate of Practical Completion to the Certifying Authority prior to the issue of the Occupation Certificate, stating the work has been carried out in accordance with the approved Landscape Drawing L-01, submitted by Space Landscape Designs dated 16/04/2018.

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

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

13. Landscape Maintenance

Landscaping is to be maintained in accordance with the Landscaping Plan L-01, submitted by Space Landscape Designs, dated 16/04/2018

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



<p>Project Name 15 Griffin St Fairlight NSW</p> <p>Project Stage Development Application</p> <p>Client Scarball & Son Pty Ltd</p>	<p>Document Number DA 03</p> <p>Document Title Site and Roof Plan</p> <p>Scale @ A3 1:100</p>
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legend	render and paint type 1	render and paint type 2
existing	RP1	metal deck roof
steel frame	RP2	fire place
sandstone blackwork	MR	timber deck
rendered bricks	FP	privacy screen
cladding type 1	TDK	g robe
cladding type 2	PS	skylight

Legend

- New walls
- Existing walls
- New Works
- Site Boundary

Revision	Date	Details
	01.05.18	DA Submission

Hobbs Jamieson Architecture
 PO BOX 75 139 056 604
 67A Wangemann Street
 Mawlongah NSW 2093
 Tel: 02 9948 3807
 e-mail: ajh@hobbsjamieson.com.au
 web: www.hobbsjamieson.com.au

levels, contours, survey and collected information provided by land surveyors. The drawings are prepared by the draughtsman, who is responsible for the dimensions and graphics shown on the drawings are followed to construct the building. It is the responsibility of those working on site to verify the dimensions and whether and locate all services as per prior to commencing work.



Project Name
15 Griffin St.
Fairlight NSW

Project Stage
Development Application

Client
Santitas Pty Ltd

Document Number
DA 07

Document Title
North and South Elevations

Scale @ A3
1:100

	existing	RP1	render and paint type 1
	SF	RP2	render and paint type 2
	S8	MGR	metal deck roof
	S9	FP	fire place
	CL1	TDC	timber deck
	CL2	PS	privacy screen
	SK	R	rubble
	SLK		skylight

Legend

- New walls
- Existing walls
- New Works
- Site Boundary

Details

Date 01.05.18

Revision _____

ilstructure
om.au
om.au

056 604
nella Street
SW 2093
8 3807

Hobbs
ABN 75 1
67A Warr
Balgowlah
tel: 02 9
email: aji
web: ww

...in this regard, the relevant standards

Do not scale

... dimensions and probability of the responsibility of the and locate all dimensions in millimetre dimensions a discrepancy exists notwithstanding shall comply with the instruments of the Water of Australia



Project Name
15 Griffin St.
Fairlight NSW

Project Stage
Development Application

Client
Scarbath & Son Pty Ltd

Document Number
DA 08

Document Title
East and West Elevations

Scale @ A3
1:100

Legend	existing	RPI	render and paint type 1
SST	steel frame	RPI2	render and paint type 2
SB	sandstone blockwork	MCR	metal deck roof
FSB	sandstone bricks	FP	fire place
CU1	coding type 1	TDC	timber deck
CU2	coding type 2	PS	privacy screen
SK	skylight	R	rubble

Legend

- New walls
- Existing walls
- New Works
- Site Boundary

Revision	Date	Details
	01.05.18	DA Submission

Hobbs Jamieson Architecture
 UBN 75 139 056 604
 67A Wangamella Street
 Maitland NSW 2093
 Tel: 02 9948 3807
 Email: ajh@hobbsjamieson.com.au
 Web: www.hobbsjamieson.com.au

Notes

All levels, contours, survey and contextual information provided by land surveyors is the owner's responsibility. The architect and parties issuing the drawings are bound to be correct. It is the responsibility of those working on site to verify the dimensions and levels. The architect is not responsible for any errors made prior to commencing work.

For all dimensions in millimetres.

For figured dimensions only, do not suppose any discrepancy exists unless architect indicates.

All work shall comply with the Building Code of Australia, the relevant requirements of the Water Board, Council and the relevant Standards Association of Australia codes and specifications.

ITEM 3.5	DA2018/0789 - 15 GRIFFITHS STREET, FAIRLIGHT - ALTERATIONS AND ADDITIONS TO THE EXISTING BUILDING
REPORTING MANAGER	Rodney Piggott
TRIM FILE REF	2018/479294
ATTACHMENTS	1 ↓ Assessment Report 2 ↓ Site Plan and Elevations

PURPOSE

To refer the attached application for determination due to directions provided by the Department of Planning & Environment in relation to applications with a clause 4.6 variation to the floor space ratio standard.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority grant Development Consent to DA2018/0789 for Alterations and additions to the existing building on land at Lot 1 DP 744025, 15 Griffiths Street, FAIRLIGHT, subject to the conditions outlined in the Assessment Report.



REPORT TO DEVELOPMENT DETERMINATION PANEL

Meeting held on 08 August 2018

15 Griffiths Street Fairlight - Alterations and additions to the existing building.

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/0789
Responsible Officer:	Maxwell Duncan
Land to be developed (Address):	Lot 1 DP 744025, 15 Griffiths Street FAIRLIGHT NSW 2094
Proposed Development:	Alterations and additions to the existing building.
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Development Determination Panel
Land and Environment Court Action:	No
Owner:	Peter Carver Riches Vini Tove Riches
Applicant:	Daniel Kimball Baldock
Application lodged:	15/05/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	18/05/2018 to 04/06/2018
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	Approval
Estimated Cost of Works:	\$ 234,014.00

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report)
DA2018/0789 Page 1 of 30



taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;

- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards

Manly Development Control Plan - 3.1 Streetscapes and Townscapes

Manly Development Control Plan - 3.4.2 Privacy and Security

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

Manly Development Control Plan - 4.1.5 Open Space and Landscaping

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

Manly Development Control Plan - 4.1.10 Fencing

SITE DESCRIPTION

Property Description:	Lot 1 DP 744025 , 15 Griffiths Street FAIRLIGHT NSW 2094
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of Griffiths Street.</p> <p>The site is regular in shape with a frontage of 8.15m along Griffiths Street, a 7.7m secondary frontage to Union Lane and a depth of 26.5m. The site has a surveyed area of 211.7m².</p> <p>The site is located within the R1 General Residential zone and accommodates a attached dwelling.</p> <p>The site slopes down from the south-east to the north-west corner of the property approximately 2.4m</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by residential development typically single and two storey detached dwelling houses.</p>

Map:



SITE HISTORY

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

DA323/2003- New carport (Approved).

DA338/2002- Additions to the dwelling house including first floor addition (Approved).

PROPOSED DEVELOPMENT IN DETAIL

The proposed works are for alterations and additions to the existing building incorporating:

Ground floor

- Ground floor extension.
- Internal alterations.
- New rear terrace

First floor

- First floor extension to allow for 2 additional bedrooms.
- Internal alterations

Other

- New carport to secondary frontage (Union Lane).
- Landscaping.
- New front fence and eastern boundary privacy screen.



In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the</p>



Section 4.15 Matters for Consideration'	Comments
	<p>consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p>Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

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

MEDIATION



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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The landscape component of the proposal is acceptable, subject to completion of the proposed landscaping and protection of existing vegetation.
NECC (Development Engineering)	Development Engineer has no objection to the application subject to the following condition of consent.
Strategic & Place Planning (Heritage Officer)	The site subject to current proposal is a heritage item. The proposal is apparently in relation to the DA2018/0788 and these comments are in concurrence with heritage comments for that DA. According to the heritage report, "The proposal comprises additions to the rear at ground and first floor level to the extent of the adjacent terrace at 17 Griffith St, alteration to ground floor layout recessed infill of non original openings to east façade, reconfiguration of the ground and first floor plan, and new stair. Demolition of the existing garage studio at the rear and construction of a new carport is proposed." Based on the review of available documents, I am of opinion that impact on heritage values will be acceptable. Thus I have no objection to this proposal from heritage perspective. Kind Regards Zoran Popovic heritage adviser
External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

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

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

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

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

SEPP (Building Sustainability Index: BASIX) 2004
DA2018/0789

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A BASIX certificate has been submitted with the application (see Certificate No. A313102).

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

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	6.7m	N/A	Yes
Floor Space Ratio	FSR: 0.6:1	FSR: 0.68:1	N/A	No
	127m ²	144.4m ²		

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
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Clause	Compliance with Requirements
4.4 Floor space ratio	No
4.6 Exceptions to development standards	Yes
5.8 Conversion of fire alarms	Yes
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.12 Essential services	Yes
Schedule 5 Environmental heritage	Yes

Detailed Assessment

4.6 Exceptions to development standards

The following assessment of the variation to Clause 4.4 - Floor Space Ratio development standard has taken into consideration the questions established in Winten Property Group Limited v North Sydney Council (2001) NSW LEC 46.

Requirement:	0.6:1 127m ²
Proposed:	0.68:1 144.4m ²
Is the planning control in question a development standard?	YES
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical
If numerical enter a % variation to requirement	13.7% variation

The proposal must satisfy the objectives of Clause 4.4 Floor Space Ratio, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the MLEP 2013. The assessment is detailed as follows:

Is the planning control in question a development standard?

The prescribed Floor space ratio limitation pursuant to Clause 4.4 of the MLEP 2013 is a development standard.

What are the underlying objectives of the development standard?

The underlying objectives of the standard, pursuant to Clause 4.4 – 'Floor space ratio' of the MLEP 2013 are:

(1) The objectives of this clause are as follows:

a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,



Comment:

The proposed first floor does not present as visually dominant in the streetscape when compared against the height and scale of surrounding development. The heritage significance of the dwelling is maintained and the additions adequately articulated from the front and rear end of the ground floor to ensure a reduced visual presence.

b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,

Comment:

The proposed bulk and scale is not inconsistent with the existing pattern of buildings within the streetscape. It is noted that other existing undersized lots within the area have similar first floor additions that result in gross floor area variations with minimal amenity impacts and similar bulk. As such it considered that the proposed variation under this application will not detract or obscure existing important landscape and townscape features.

c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,

Comment:

The development overall is found to enhance the visual continuity of the existing character of the area and improve the aesthetics of the development on site.

d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,

Comment:

The proposed development does not result in any unreasonable amenity impacts to adjoining properties or any nearby public spaces. Overshadowing and privacy impacts are considered negligible. No views will be impeded by the proposed works.

e) to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.

Comment:

Not applicable.

What are the underlying objectives of the zone?

In assessing the developments the non-compliance, consideration must be given to its consistency with the underlying objectives of the R1 General Residential zone.

The underlying objectives of the R1 General Residential zone:

- *To provide for the housing needs of the community within a low density residential environment.*



Comment:

The proposal will not affect the housing needs of the community.

It is considered that the development satisfies this objective.

- *To provide for a variety of housing types and densities.*

Comment:

The proposal maintains housing variety within the residential area.

It is considered that the development satisfies this objective.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment:

Existing residential use remains unchanged.

It is considered that the development satisfies this objective.

Is the variation to the development standard consistent with the objectives of Clause 4.6 of the MLEP 2013?

(1) The objectives of this clause are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development.

Comment:

The proposed development provides for an appropriate level of flexibility in applying the Floor Space Ratio development standard.

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Comment:

The proposed variation to the Floor Space Ratio allows for an outcome that doesn't reduce usable outdoor living space in a relatively dense area, thereby creating an improved outcome for the site, while retaining the existing residential use and reasonable levels of amenity for adjoining properties.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development



standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

" It is considered that the proposed overall size of the

- *The bulk and scale of the development is consistent with the existing and desired streetscape character, which is essentially a mix of two storey and single storey dwellings, as well as three storey apartment blocks. The bulk and scale of the proposed development is less than the neighbouring dwelling at 17 Griffiths Street.*
- *The ground floor and first floor additions are at the rear of the building maintaining the single storey appearance of the cottage from the street.*
- *The proposed addition to the first floor will not obscure any important landscape and townscape features and will not have a negative impact on the public domain.*
- *The proposed alterations and additions will maintain an appropriate visual relationship with the existing character and landscape of the area as the attached dwelling maintains its existing front setback at the ground floor and the first floor. There will be improvements to the existing façade and porch.*
- *It is considered that the bulk and scale of the proposed alterations and additions will not have an adverse environmental impact on the use and enjoyment of the adjoining properties in regard to privacy or solar access.*

It is considered that the proposed overall size of the

- *Improves the amenity of the existing dwelling to meet the needs of the occupants*
- *Increases the size of the dwelling while maintaining the character and scale of the building in relation to neighbouring properties.*

As the proposal is for a modest addition to a family



- *is unreasonable and unnecessary as the proposal meets the objectives of Clause 4.4 of the Manly LEP 2013 and the objectives of the R1 General Residential Zone and is therefore in the public interest*
- *does not raise any matters of State or regional significance for environmental planning*
- *achieves a better planning outcome as it improves the amenity of the dwelling house for the occupants while improving the appearance of the building from the public domain.*

As the proposed alterations and additions do not contravene the objectives of the R1 General Residential Zone, the proposed development is considered to be in the public interest.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

Comment:

The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3).

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Comment:

For reasons detailed above, the proposal is considered to be consistent with the objectives of the R1 General Residential zone in the MLEP 2013.

(b) the concurrence of the Director-General has been obtained

Comment:

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument where the variation to a numerical standard is not greater than 10%. Following the release of PS18-003, Council received correspondence from a delegate of the Secretary which granted Council staff, for 12 months from 1 March 2018, the ability to assume the Secretary's concurrence for Class 1 buildings which seek to vary the building height standard by more than 10%.

As the development varies development standard by more than 10% the concurrence of the Secretary is assumed subject to determination through Councils Development Determination Panel.



Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 211.7m ²	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	East: 6.5m	5.8m	N/A	Yes
	West: 6.5m	5.8m	N/A	Yes
4.1.2.2 Number of Storeys	2	2	N/A	Yes
4.1.2.3 Roof Height	Height: 2.5m	0.6m (new)	N/A	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	1.8m, consistent with prevailing setback	70%	No
		6.65m (secondary), consistent with prevailing setback (measured from deck)	N/A	Yes
		0m (secondary), consistent with prevailing setback (carport)	100%	No
4.1.4.2 Side Setbacks and Secondary Street Frontages	1.93m (based on eastern wall height)	0m	100%	No
	1.93m (based on western wall height)	0m	100%	No
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% (116.44m ²) of site area	39.2% (80.4m ²)	31%	No
4.1.5.2 Landscaped Area	Landscaped area 35% (28.14m ²) of open space	53% (42.7m ²)	N/A	Yes
	1 native trees	1 trees (Water gum)	N/A	Yes
4.1.5.3 Private Open Space	18m per dwelling	53.6sqm	N/A	Yes
4.1.10 Fencing	1m or 1.5m with 30% transparency	1.75m	75%	No
Schedule 3 Parking and Access	Dwelling 2 spaces	1 spaces	50%	No

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

Compliance Assessment



Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.7 Stormwater Management	Yes	Yes
4.1 Residential Development Controls	No	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.10 Fencing	No	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes

Detailed Assessment

3.1 Streetscapes and Townscapes

Description of non-compliance

Clause 4.1.10 requires Freestanding walls and fences between the front street boundary and the building are to be no more than 1m high above ground level at any point or up to 1.5m where at least 30 percent of the fence is open/ transparent for at least that part of the fence higher than 1m. The proposed fence for this application is 1.75m above ground level at its highest point, non-compliant with the numeric control.

Merit consideration:

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

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

Comment:

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The height of the proposed front fence is offset by planting within the front setback of the property. The proposed fence does not detract from the historic style of the building and character of the streetscape, consistent with clause 3.2.3 (Fences for Heritage Items and Conservation Areas) of the Manly DCP. The sandstone element of the front fence is retained as part of the proposed works.

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

Comment:

The proposed height and type of front fence proposed is complements the existing streetscape. No. 13 Griffiths Street the adjoining property to the east has a picket fence to a height matching the proposed fence. No. 17 Griffiths to the west of the subject site has front fence significantly higher than what is proposed in this application. The proposed front fence improves on the existing streetscape by proposing a fence with significant transparency at a height complementary to the streetscape. The height of the fence is further offset by landscape features proposed immediately behind the front fence.

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

Comment:

Not applicable.

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

3.4.2 Privacy and Security

Merit consideration:

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

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

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

Comment:

The proposed outdoor living space to the rear of the property is not raised above existing ground level. There is not potential for direct overlooking to adjoining properties to the east and west. The proposed size and overall use of the outdoor living space is not unreasonable in this residential context.

There is no change to the windows facing the front of the property (Griffith Street). The new first floor



windows to the rear of the dwelling do not directly overlook any adjoining properties.

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

Comment:

Skylights have been proposed to the top of the ground floor living rooms. This allows for increased sunlight access to the living rooms, while not compromising privacy to and from adjoining properties.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The proposal maintains a open frontage to allow for passive surveillance.

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

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

Description of non-compliance

Clause 4.1.4.2 of the MDCP 2013 requires that the side setbacks for residential dwellings must not be less than one third of the height of the adjacent external wall equal to 1.93m for the east and west side setback. The works propose a side setback of 0m (100% variation) for both the east and west side setback, non-compliant with the numerical controls.

Clause 4.1.4.1 requires buildings be setback 6m from the front property boundary. The works proposes a 1.8m (70% variation) setback to the primary frontage (Griffiths Street) and 0m (100% variation) setback to the secondary frontage (Union Lane).

Merit consideration:

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

Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.

Comment:

The proposed setback are an extensions of an existing non-compliance. The proposed works allows for a greater levels of habitable space on site without compromising the heritage value of the site.

Objective 2) To ensure and enhance local amenity by:

- providing privacy;
- providing equitable access to light, sunshine and air movement; and
- facilitating view sharing and maintaining adequate space between buildings to limit impacts on views



- *and vistas from private and public spaces.*
- *defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
- *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

Comment:

The proposal will not result in any unreasonable amenity impacts. The outdoor living area and new windows do not unreasonably impact upon privacy to adjoining properties. The resulting impact from the development is considered negligible. No valuable views from neighbouring properties are expected to be compromised by the proposed works.

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

Flexibility is allowed in this situation as the proposed development retains suitable amenity and reasonable visual presentation to the street which ensures an appropriate siting, despite the non-compliance with the numerical controls for side setbacks.

Objective 4) To enhance and maintain natural features by:

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

Comment:

The proposal has a compliant amount of landscaped area and subject to conditions will provide appropriate landscaping across the site.

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

Comment:

The subject site is not located in a bush fire asset protection zone.

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

4.1.5 Open Space and Landscaping

Description of non-compliance

Clause 4.1.5.1 of the Manly DCP requires at least 55% (116.44m²) of site area be total open space.

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The application proposes 39.2% (80.4m²) total open space, contravening the control by 31%.

Merit consideration:

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

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

Comment:

The proposal includes significant landscaping to the site that will augment the landscape features of the site. The proposal does not include the removal of any significant landscape features.

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

Comment:

The site has an adequate provision of open space when compared to the lot size and existing development on the subject site. The proposal is consistent with the numerical control for landscaped open space.

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

Comment:

The proposal has been assessed with regard to amenity and (privacy and sunlight) was found to achieve an acceptable level of amenity for the site streetscape and surrounding area.

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

Comment:

The proposal includes adequate landscaped area to allow for water infiltration on site.

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

Comment:

The proposed landscaping will minimise the spread of weeds and degradation of private and public open space.

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

Comment:

The subject site is not located within the vicinity of a wildlife corridor.

Having regard to the above assessment, it is concluded that the proposed development is consistent



with the relevant objectives of MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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

Description of non-compliance

Schedule 3 of the Manly DCP requires dwelling houses have 2 parking spaces. The development proposes 1 parking space (50% variation), non compliant with the numeric control.

Merit consideration:

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

Objective 1) To provide accessible and adequate parking on site relative to the type of development and the locality for all users (residents, visitors or employees).

Comment:

The proposed development retains the single car space on site, there is no reduction. The proposed parking is adequate to serve residents on site. The proposal will provide accessible and adequate parking on the site relative to the development.

Objective 2) To reduce the demand for on-street parking and identify where exceptions to onsite parking requirements may be considered in certain circumstances.

Comment:

Increasing the existing parking provisions to allow for 2 parking spaces would reduce a major portion of proposed landscaped open space and would create an unreasonable visual impact upon the frontage of the property. As such, in this circumstance the existing parking provision of 1 parking space is considered reasonable, as the density is not increasing.

Objective 3) To ensure that the location and design of driveways, parking spaces and other vehicular access areas are efficient, safe, convenient and are integrated into the design of the development to minimise their visual impact in the streetscape.

Comment:

The proposed parking space fronts Bonner Avenue,

Objective 4) To ensure that the layout of parking spaces limits the amount of site excavation in order to avoid site instability and the interruption to ground water flows.

Comment:

There is no site excavation proposed.

Objective 5) To ensure the width and number of footpath crossings is minimised.



Comment:

There new crossover is 2.6m wide. This proposed crossing is not unreasonable.

Objective 6) To integrate access, parking and landscaping; to limit the amount of impervious surfaces and to provide screening of internal accesses from public view as far as practicable through appropriate landscape treatment.

Comment:

The subject site is adequately landscaped across the front and rear boundary to offset the bulk and scale of semi-detached dwelling.

Objective 7) To encourage the use of public transport by limiting onsite parking provision in Centres that are well serviced by public transport and by encouraging bicycle use to limit traffic congestion and promote clean air.

Comment:

The proposal is not located within a B1 Neighbourhood Centre or B2 Local Centre Zone. However, the proposal is in close proximity to North Steyne and Pittwater Road which is well serviced by public transport.

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

4.1.10 Fencing

See comments related to streetscape (Part 3.1 of the Manly DCP) in this report.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Manly Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

CONCLUSION

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



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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/0789 for Alterations and additions to the existing building. on land at Lot 1 DP 744025, 15 Griffiths Street, FAIRLIGHT, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA02/ Demolition Plan	1 May 2018	Hobbs Jamieson Architects
DA03/ Site/ Roof Plan	1 May 2018	Hobbs Jamieson Architects
DA04/ Ground Floor Plan	1 May 2018	Hobbs Jamieson Architects
DA05/ First Floor Plan	1 May 2018	Hobbs Jamieson

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		Architects
DA06/ Section A	1 May 2018	Hobbs Jamieson Architects
DA07/ North and South Elevation	1 May 2018	Hobbs Jamieson Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX certificate number: A313102	11 April 2018	Efficient Living

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

Landscape Plans		
Drawing No.	Dated	Prepared By
L-01/ Landscape Plan	16 April 2018	Space Landscape Designs

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

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

2. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of



that Act,

- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)

3. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of



any Authorised Officer.

- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
 - (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
 - (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
 - (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
 - (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
 - (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
 - (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
 - (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished
- The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008



- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

FEES / CHARGES / CONTRIBUTIONS

4. Security Bond

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

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

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

5. Stormwater Disposal

Engineering Plans certified by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to Griffiths Street. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

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

6. External Finishes to Roof

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

7. Tree protection

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.

8. Tree Protection Measures

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.

9. Tree Protection 2

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.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

10. Maintenance of Road Reserve

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety.

11. Trees Protection Measures 2

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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. 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 .

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, to ensure those trees are maintained appropriately and compliance with Australian Standard AS 4373:2007 – Pruning of Amenity Trees. (DACLA03)

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

12. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

13. **Landscaping Completion**

A qualified Landscape Consultant is to submit a Certificate of Practical Completion to the Certifying Authority prior to the issue of the Occupation Certificate, stating the work has been carried out in accordance with the approved Landscape Plan L-01 submitted by Space Landscape Design, dated 16/04/2018 and a maintenance program has been established.

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

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

14. **Landscape Maintenance**

Landscaping is to be maintained in accordance with the approved Landscaping- Plan L-01 submitted by Space Landscape Designs, dated 16/04/2018

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



Project Name 15A Griffith St. Fairlight, NSW	Document Number DA 03
Project Stage Development Application	Document Title Site and Roof Plan
Client Scarbish & Sons Pty Ltd	Scale @ A3 1:100



Legend	coating	RPI	render and paint type 1
87	steel frame	R22	render and paint type 2
88	sandstone blockwork	MDR	metal deck roof
91	rendered bricks	FP	fire place
92	cladding type 1	TDK	timber deck
93	cladding type 2	PS	plastic screen
94	skylight	R	roofs

Legend

- New walls
- Existing walls
- New Works
- Site Boundary

Revision	Date	Details
-	01.05.18	DA Submission

Hobbs Jamieson Architecture
 BN 75 139 056 604
 177A Wangamella Street
 Lalagwah NSW 2093
 Tel: 02 9948 3807
 Email: ajh@hobbsjamieson.com.au
 Web: www.hobbsjamieson.com.au

level, continuous and calculated information provided by Land Stewards in the dimensions and profiles shown on the drawings is believed to be correct. It is the responsibility of those working on site to verify the dimensions and profiles and locate all services on site prior to commencing work.

Dimensions in millimetres. Do not scale.

Discrepancies must not be rectified immediately.

All work shall comply with the Building Code of Australia, the rules and requirements of the Water Board, Council and the relevant Standards Association of Australia codes and specifications.

Project Name	15A Griffith St Fairlight NSW
Project Stages	Development Application
Client	Scarboll & Sons Pty Ltd
Document Number	DA 07
Document Title	North and South Elevations
Scale @ A3	1:100

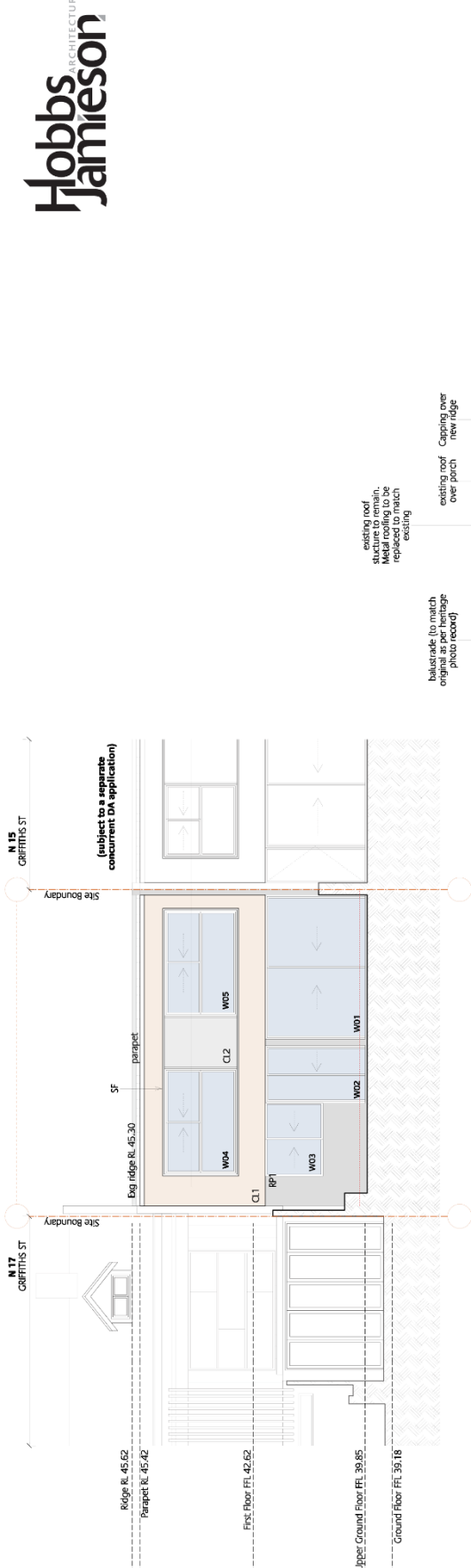
Legend	existing	RP1	render and paint type 1
	new	RP2	render and paint type 2
	SP	MR	metal deck roof
	SB	RP	free place
	RB	TDK	timber deck
	CL1	PS	privacy screen
	CL2	R	roofs
	SK		skyline

Legend	New walls
	Existing walls
	New Works
	Site Boundary

Details	DA Submission
Date	01/05/18
Revision	

Hobbs Jamieson Architecture	ABN 75 139 056 804 15A Griffith St Fairlight NSW 2203 tel: 02 9946 3307 web: www.hobbsjamieson.com.au
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Note:
All work, drawings, designs and calculated information provided by Hobbs Jamieson Architecture is for the use of the client only. The client is responsible for ensuring that the information is used for the intended purpose and is not used for any other purpose without the written consent of Hobbs Jamieson Architecture.
The drawings and profiles shown in this drawing are believed to be correct, but Hobbs Jamieson Architecture does not warrant the accuracy or completeness of the information and does not accept any liability for any loss or damage arising from the use of the information.
All dimensions in millimetres.
If any discrepancy arises with the drawings, the client must contact Hobbs Jamieson Architecture immediately.
All work is done in accordance with the Australian Standards of Workmanship and Specifications.
Association of Architects and Architects



ITEM 3.6

REV2018/0012 - 4 CHERRY LANE, WARRIEWOOD - REVIEW OF DETERMINATION OF APPLICATION N0535/17 FOR THE CONSTRUCTION OF A NEW DWELLING WITHIN LOT 15, CHERRY LANE, WARRIEWOOD

REPORTING MANAGER

Matthew Edmonds

TRIM FILE REF

2018/479318

ATTACHMENTS

1 ↓ Assessment Report

2 Site Plan and Elevations

PURPOSE

To refer the attached application for determination as required under adopted delegations of the Charter.

RECOMMENDATION OF DEVELOPMENT ASSESSMENT MANAGER

THAT Council as the consent authority grant Development Consent to REV2018/0012 for Review of Determination of Application N0535/17 for the construction of a new dwelling within Lot 15, Cherry Lane, Warriewood on land at Lot 15 DP 286740, 4 Cherry Lane, WARRIEWOOD, subject to the conditions outlined in the Assessment Report.



REPORT TO DEVELOPMENT DETERMINATION PANEL

Meeting held on 08 August 2018

4 Cherry Lane Warriewood - Review of Determination of Application N0535/17 for the construction of a new dwelling within Lot 15, Cherry Lane, Warriewood

REVIEW OF DETERMINATION ASSESSMENT REPORT

Application Number:	REV2018/0012
Responsible Officer:	Nick Armstrong
Land to be developed (Address):	Lot 15 DP 286740, 4 Cherry Lane WARRIEWOOD NSW 2102
Proposed Development:	Review of Determination of Application N0535/17 for the construction of a new dwelling within Lot 15, Cherry Lane, Warriewood
Zoning:	R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Rodney Craig Ingram Karen Ann Ingram
Applicant:	Clarendon Homes Pty Ltd
Application lodged:	15/06/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	02/07/2018 to 18/07/2018
Advertised:	Not Advertised
Submissions Received:	0
Recommendation:	Approval
Estimated Cost of Works:	\$ 534,947.00

ASSESSMENT INTRODUCTION

REV2018/0012

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The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Environmental Planning and Assessment Act 1979 - Section 82A - Environmental Planning and Assessment Act 1979 - Section 82A

Pittwater 21 Development Control Plan - B4.1 Flora and Fauna Conservation Category 1 Land

Pittwater 21 Development Control Plan - D16.4 Water Management for individual allotments

Pittwater 21 Development Control Plan - D16.5 Landscaped Area for Newly Created Individual Allotments

Pittwater 21 Development Control Plan - D16.7 Side and rear building lines

Pittwater 21 Development Control Plan - D16.12 Fences

Pittwater 21 Development Control Plan - D16.13 Building colours and materials

SITE DESCRIPTION

Property Description:	Lot 15 DP 286740 , 4 Cherry Lane WARRIEWOOD NSW 2102
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Cherry Lane.</p> <p>The site is irregular in shape with a frontage of 8.094m along Cherry Lane and a depth of 21.82m. The site has a surveyed area of 604m².</p> <p>The site is located within the R3 Medium Density Residential zone and is currently vacant.</p> <p>The site falls 3.98m from the western boundary to the northeastern corner with an approximate slope of 13.8%.</p> <p>The site does not contain any significant vegetation.</p> <p>Detailed Description of Adjoining/Surrounding</p>



Development

Adjoining and surrounding development is characterised by newly created medium density residential allotments which are predominately vacant. A strip of RU2 Rural Landscape zoning exists adjacent to the western boundary which contains dense vegetation.

Map:



SITE HISTORY

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

Property History

02/06/2015

Development Application N0209/14 for the subdivision of the existing single allotment into twenty-three (23) lots was approved by the Land and Environment Court of NSW through a Section 34 Agreement.

08/09/2015

Section 96 Modification Application N0209/14/S96/1 for a twenty-three (23) lot subdivision was granted modified consent by Council.

11/07/2016

Section 96 Modification Application N0209/14/S96/2 for a twenty-three (23) lot subdivision was granted modified consent by the Land and Environment Court of NSW.

06/04/2017

Section 96 Modification Application N0209/14/S96/3 for a twenty-three (23) lot subdivision was granted modified consent by the Land and Environment Court of NSW through a Section 34 Agreement.

08/03/2018

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Subdivision Certificate SC2017/0198 for a twenty-three (23) lot torrens title subdivision was registered.

Application History

11/05/2018

Development Application N0535/17 for the construction of a new single dwelling was refused for the following reason:

- The proposal does not provide sufficient information within the stormwater management plan and does not meet condition B.24 within consent N0209/14/S96/3. The outcomes of C6.1 *Integrated Water Cycle Management* are not achieved.

Further details regarding the refusal have been provided within Section D16.4 of this report.

PROPOSED DEVELOPMENT IN DETAIL

The application seeks a review of the determination of Development Application N0535/17 which refused the construction of a new single dwelling.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

In accordance with Division 8.2 of the Act, an applicant may request Council to review a determination of a development application, other than for a complying development, integrated development, designated development or a determination made by Council in respect to an application by the Crown. The development application does not fall into any of these categories, therefore the applicant may request a review.

In accordance with Division 8.2 of the Act, the request for the review must be made and determined within 6 months after the date of determination of the development application. The application was determined on 11/05/2018. The review was lodged on 26/06/2018.

Section 8.3 provides that the Council may review a determination if in the event that the applicant has made amendments to the development described in the original application, the consent authority is satisfied that the development, as amended, is substantially the same as the development described in the original application.

The amendments to the proposal are outlined in the 'Detailed Description of Works' section of this report.

A review of the original and amended plans has found that there are fundamental similarities between the original and the amended design (being subject of the 8.2 review) and the nature of the intended land use remains the same. Accordingly it is concluded that the amended scheme is substantially the same as the original proposal. Accordingly, it is considered that the proposal satisfies the requirement of Section 8.3 of the Act

EXISTING USE RIGHTS



Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

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

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

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The landscape proposal is acceptable. Conditions have been included to ensure that the development satisfies Pittwater 21 DCP and Part 6 Design Criteria for Warriewood Valley Release Area.
NECC (Development Engineering)	The revised stormwater management plan addresses the previous issues raised in the original application. The proposed driveway grade is satisfactory. No objection to approval, subject to conditions as recommended.
NECC (Water Management)	The rain garden meets the requirements of the Water Management Plan and DCP controls. Conditions have been placed that ensure registration of the raingarden on titles/instruments and appropriate maintenance takes place. An additional control has been placed to ensure application of sediment controls.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

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

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

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



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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 840235S_02, dated 30/04/2018).

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

Commitment	Required Target	Proposed
Water	40	42
Thermal Comfort	Pass	Pass
Energy	40	90

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

Pittwater Local Environmental Plan 2014

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	10.5m	8.842m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.10 Essential services	Yes

Pittwater 21 Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	4m	8.527m	N/A	Yes

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Rear building line	4m	2m	50%	No
Side building line	2.5m	3.5m	N/A	Yes
	0.9m	3.3m	N/A	Yes
Landscaped area	45%	41.2%	8.4%	No

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.16 Warriewood Valley Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.1 Flora and Fauna Conservation Category 1 Land	Yes	Yes
B4.3 Flora and Fauna Habitat Enhancement Category 2 Land	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
C1.1 Landscaping	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	Yes	Yes
C1.7 Private Open Space	Yes	Yes
C1.23 Eaves	Yes	Yes
C1.24 Public Road Reserve - Landscaping and Infrastructure	Yes	Yes
D16.1 Character as viewed from a public place	Yes	Yes
D16.4 Water Management for individual allotments	Yes	Yes
D16.5 Landscaped Area for Newly Created Individual Allotments	No	Yes
D16.6 Front building lines	Yes	Yes
D16.7 Side and rear building lines	No	Yes
D16.9 Solar access	Yes	Yes
D16.10 Private and Communal Open Space Areas	Yes	Yes

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Clause	Compliance with Requirements	Consistency Aims/Objectives
D16.11 Form of construction including retaining walls, terracing and undercroft areas	Yes	Yes
D16.12 Fences	Yes	Yes
D16.13 Building colours and materials	Yes	Yes
D16.14 Pets and companion animals	Yes	Yes

Detailed Assessment

B4.1 Flora and Fauna Conservation Category 1 Land

Based on aerial photos, several trees were recognised to be within close proximity to the subject site (located within the RU2 Rural Landscape zoned community lot). Upon a site inspection, these trees were confirmed to be several meters from the rear boundary and close to 10m from the area of works associated with this subject development. The construction of a new dwelling is unlikely to have an impact on the ability to retain these neighbouring trees due to the distance between the two.

D16.4 Water Management for individual allotments

Original Development Application

The original Development Application N0535/17 for the construction of a new single dwelling was refused on the basis that the proposed stormwater management system was assessed as being inconsistent with the requirements stipulated within the integrated stormwater management plan and report (prepared by Civil Certification, Revision 6, dated 07/06/2016) approved as part of the subdivision application (N0209/14) and subsequent modification applications.

Council's Development Engineer provided the following comments behind the reason for refusal:

The drainage information submitted by the applicant has been reviewed and is not satisfactory. The drawings do not provide sufficient information including the dimensions to ensure that the required 5sqm rain garden has been provided in the design. Also the proposed on-site stormwater detention system (OSD) tank system is not acceptable as the proprietary system shown is not a sealed tank i.e. the base is covered with geotextile fabric and there is insufficient access to the tank for future maintenance.

The proposed development is not supported due to insufficient information to assess the water management for the site in accordance with Council's DCP and the Water Management Report adopted for the subdivision.

Current Review Application

Council's Development Engineer and Project Leader - Water Management have assessed the amended internal stormwater management system proposed for the newly created allotment and considered the arrangement acceptable and consistent with the integrated stormwater management plan for the subdivision. Conditions have been included to ensure the development satisfies these requirements.

D16.5 Landscaped Area for Newly Created Individual Allotments



The application falls short of the required landscaped area (45%) for newly created residential allotments within the Warriewood Valley Urban Release Area, having been measured at 41.2%.

However, the application includes a large area (44.1m²) of decorative gravel/pebbles along the northern and eastern elevations of the dwelling, which although is technically not able to be considered as landscaped area as per the definition within PLEP 2014 (landscaped area means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area), it is even less closely associated with the definition of site coverage as defined below:

Site Coverage means the proportion of a site area covered by buildings. However, the following are not included for the purpose of calculating site coverage:

- (a) any basement,
- (b) and part of an awning that is outside the outer walls of a building and that adjoins the street frontage or other site boundary,
- (c) any eaves,
- (d) unenclosed balconies, decks, pergolas and the like.

The pebble/gravel area is an impervious surface which allows for stormwater runoff to infiltrate the ground into the water table, which satisfies one of the key control outcomes. The development as a whole is generally consistent with Council's built form controls for single dwellings within the Warriewood Valley Locality and provides for a reasonable amenity outcome to the residents of the subject dwelling and future residents of neighbouring allotments.

With the gravel/pebble area included within the landscaped area calculation, the landscaped area is measured at 48.5% which achieves compliance with the numerical requirements of the control. As the development is considered to also achieve the control outcomes, the application results in an acceptable landscaped area arrangement.

D16.7 Side and rear building lines

The application will be non-compliant with the 4m rear setback, as based on the orientation of the site, technically the northern boundary is the rear setback even though based on the positioning of the proposed dwelling this boundary resembles a side boundary while the western boundary more closely resembles a rear boundary.

Despite this, the subject site adjoins a RU2 Rural Landscape zoned lot to the west and a split zoned R3 Medium Density Residential and RU2 lot to the north. The portion of the neighbouring site which is directly adjacent to the northern boundary of the subject site is an access drive which services 4 Fern Creek Road which is a rural property that falls outside the Warriewood Valley Urban Land Release Area, making this site unlikely to be developed further in the future. Considering this, the non-compliant northern rear setback of the proposed dwelling is unlikely to have any amenity impact to any current or future development located on this allotment and considering that the development provides a generous setback to the western boundary a variation in this instance is acceptable.

D16.12 Fences

1.8m high timber/Colorbond rear and side fencing is proposed, with all fencing located behind the building line. Shrubs and landscaping are located forward of the front building line. This is acceptable.

D16.13 Building colours and materials

The selected colours and external materials are generally consistent with Council's controls for dark



and earthy tones.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Pittwater Section 94 Development Contributions Plan

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to REV2018/0012 for Review of Determination of Application N0535/17 for the construction of a new dwelling within Lot 15, Cherry Lane, Warriewood on land at Lot 15 DP 286740, 4 Cherry Lane, WARRIEWOOD, subject to the

REV2018/0012

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conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Sheet 2 - Site Plan, Revision P	03/05/2017	Clarendon Homes
Sheet 5 - Elevations (South and East), Revision P	13/06/2017	Clarendon Homes
Sheet 6 - Elevations (North and West), Revision P	13/06/2017	Clarendon Homes
Sheet 7 - Section A-A, Revision P	13/06/2017	Clarendon Homes

Engineering Plans		
Drawing No.	Dated	Prepared By
C7942-12179, Sheet 1, Revision C, Issue 4	16/05/2018	Ibrahim Stormwater Consultants
C7942-12179, Sheet 2, Revision C, Issue 4	16/05/2018	Ibrahim Stormwater Consultants
C7942-12179, Sheet 3, Revision C, Issue 4	16/05/2018	Ibrahim Stormwater Consultants

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Risk Report	17/10/2017	AW Geotechnical
BASIX Certificate, Ref. 840235S_02	30/04/2018	Home Design Services

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
LP01 - Sheet 1, Issue E	06/06/2018	Dapple Designs
LP01 - Sheet 2, Issue E	06/06/2018	Dapple Designs
LP01 - Sheet 3, Issue E	06/06/2018	Dapple Designs
LP01 - Sheet 4, Issue E	06/06/2018	Dapple Designs



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

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

2. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the



footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)

3. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths,



- roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
 - (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
 - (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

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

4. **Vehicle Driveway Crossing**
 The driveway crossing between the private road and the boundary of the lot up to the proposed garage must be designed to comply with the requirements of AS/NZS 2890.1:2004 Offstreet car parking. Details of the driveway design are to be certified by a qualified Civil Engineer and are to be provided to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.

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

 Reason: To ensure suitable vehicular access to private property
5. **Stormwater Drainage System**
 Engineering plans including specifications and details of all the elements of the stormwater drainage system are to be submitted to the Accredited Certifier with the Construction Certificate. Such details are to be accompanied by certification by a qualified experienced practising Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E.) or who is eligible to become a corporate member and has appropriate experience and competence in the related field, confirming that the plans/details comply with the concept design by Ibrahim Stormwater Consultants, drawing number C7943-12179 Sheets 1 to 3 Revision C dated 18-05-2018 and the Water Management Report by Civil Certification Pty Ltd Issue 7 dated October 2016.



The drainage plans must address the following:

1. A minimum 27,300 litre on-site detention tank
2. A minimum 3,000 litre rainwater tank
3. A minimum 5 square metre raingarden

Detailed drainage plans, including engineering certification confirming the above requirements have been satisfied are to be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.

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

6. **Shoring of Adjoining Property**

Where excavations extend below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must give the owner of the adjoining property at least seven (7) days written notice of their intention to excavate below the level of the base of the footing and furnish the adjoining property owner with particulars of the proposed work.

Should the proposal require shoring to support an adjoining property owner's consent for the encroachment onto the affected property owner shall be provided with the engineering drawings.

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

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties.

7. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

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

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

8. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

9. **Sewer / Water Quickcheck**

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney



Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

10. Installation and Maintenance of Sediment and Erosion Control

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prepared by Clarendon Homes. Sediment socks should be placed around all grates in the road gutter, and around all pits on the lot, and sediment should be removed after each rain event. Access to the site shall be stabilized and vehicles should not carry sediment onto the road.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

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

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

11. On-Site Stormwater Detention Compliance Certification

The stormwater drainage system must be constructed and completed in accordance with the approved design and relevant Australian Standards.

A plan showing pipe locations and diameters of the stormwater drainage system must be provided.

Certification is to be provided to the Principal Certifying Authority by a qualified experienced practising Civil Engineer with corporate membership of the Institute of Engineers Australia (M.I.E.) or who is eligible to become a member and has appropriate experience and competence in the related field, that the stormwater management system has been completed in accordance with the engineering plans and specifications required under this consent.

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

Reason: To ensure stormwater management system is constructed to Council's satisfaction. (DACENF10)

12. Certification Parking Facility Work

Certificate is to be submitted to the Principal Certifying Authority with the Occupation Certificate



application by a qualified practicing Civil Engineer confirming to the satisfaction of the Private Certifying Authority that the driveway has been constructed in accordance with the approved plans, AS/NZS 2890.1:2004 and relevant conditions of Development Consent.

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

Reason: Compliance with this consent

13. **House / Building Number**

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

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

Reason: Proper identification of buildings. (DACPLF04)

14. **Sydney Water**

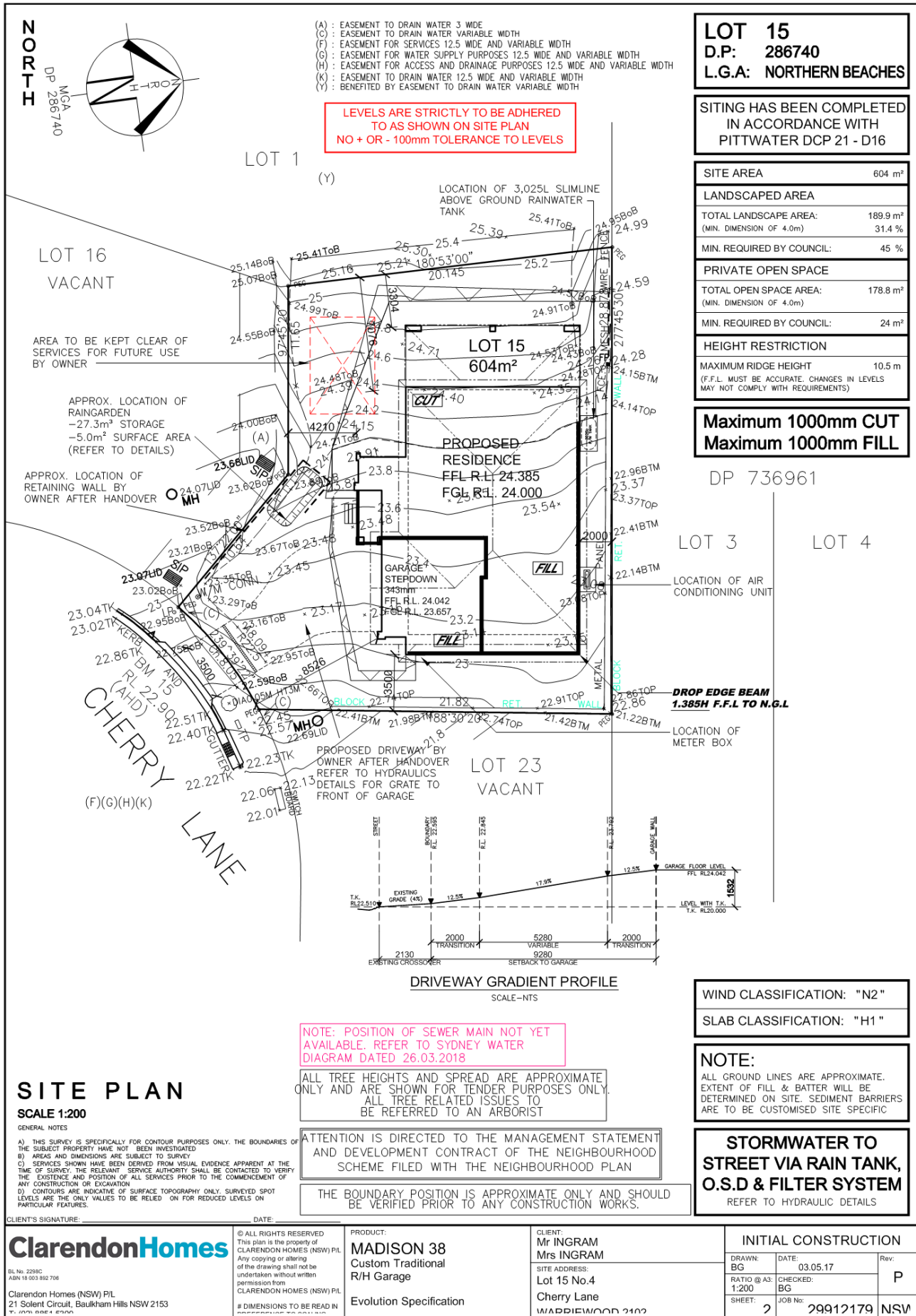
A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

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

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLF08)





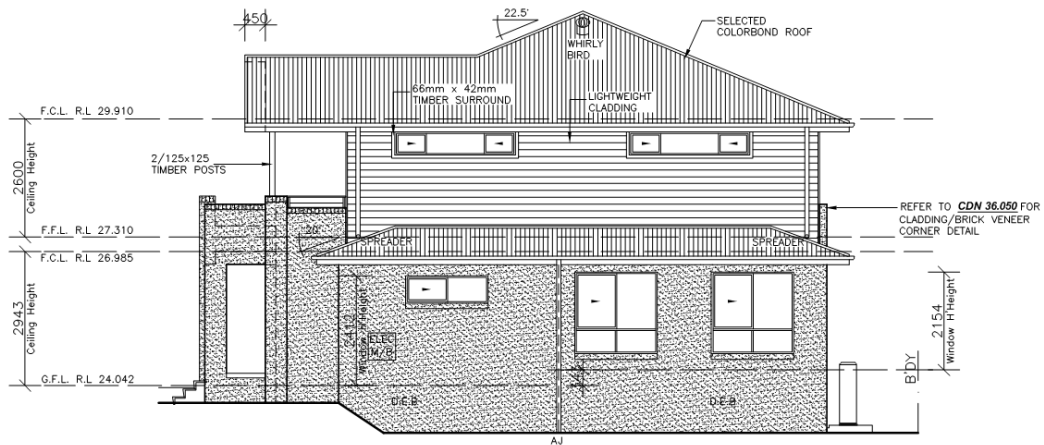
NOTE:
HEIGHT OF DROP EDGE BEAM MAY
VARY DUE TO SITE CONDITIONS
UPON COMPLETION OF SITE WORKS

NOTE:
NUMBER OF STEPS REQUIRED MAY
VARY DEPENDING ON SITE
CONDITIONS



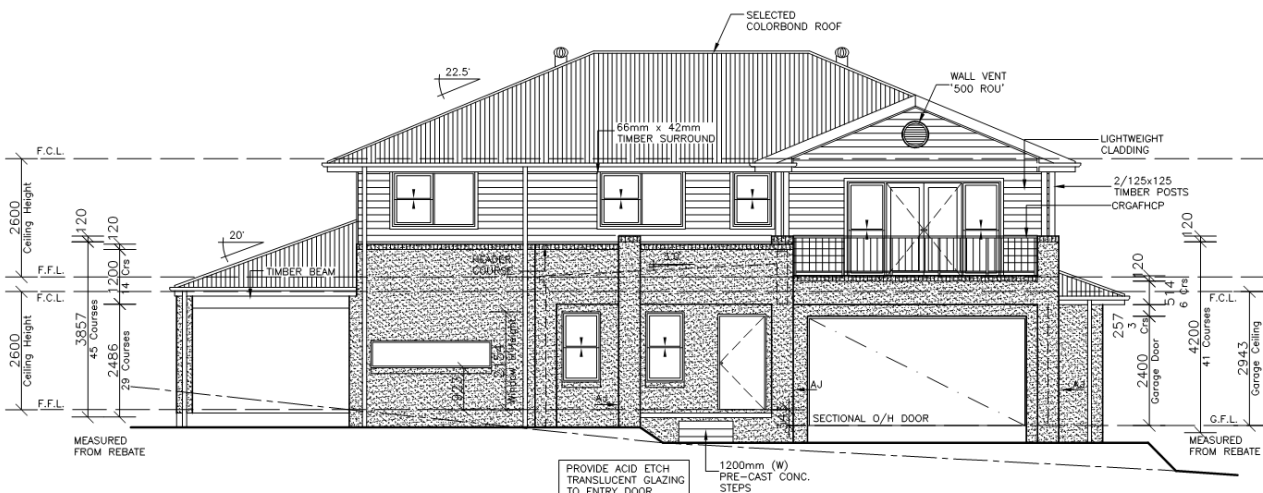
Acrylic Rendered Finish

NOTES:
FOR DROP-OFF'S REFER
TO FRAMING DETAILS
CDN 21.010-21.000



ELEVATION 1
(EAST)

**NOTE: PROVIDE FLUSH BRICK SILLS TO ELEVATION 1
(EAST) & ELEVATION 2 (SOUTH) TO SUIT FUTURE
WINDOW MOULDINGS BY CLIENT AFTER HANDOVER.
(SILL NOT TO PROTRUDE FROM WALL)**



ELEVATION 2
(SOUTH)

CLIENT'S SIGNATURE: _____ DATE: _____

ClarendonHomes

BL No. 22980
ABN 18 003 892 706

Clarendon Homes (NSW) P/L
21 Solent Circuit, Baulkham Hills NSW 2153
T: (02) 884 6200

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DIMENSIONS TO BE READ IN
REVERSE SIDE

PRODUCT:
MADISON 38
Custom Traditional
R/H Garage
Evolution Specification

CLIENT:
**Mr INGRAM
Mrs INGRAM**
SITE ADDRESS:
**Lot 15 No.4
Cherry Lane
WARRIEWOOD 2102**

INITIAL CONSTRUCTION

DRAWN: MP	DATE: 13.06.17	Rev: P
RATIO @ A3: 1:100	CHECKED: MP	
SHEET: 5	JOB No: 29912179	NSW



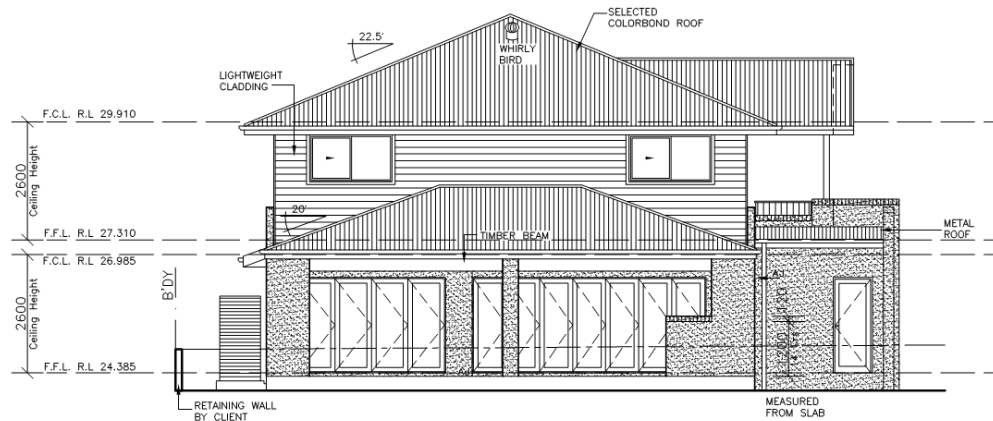
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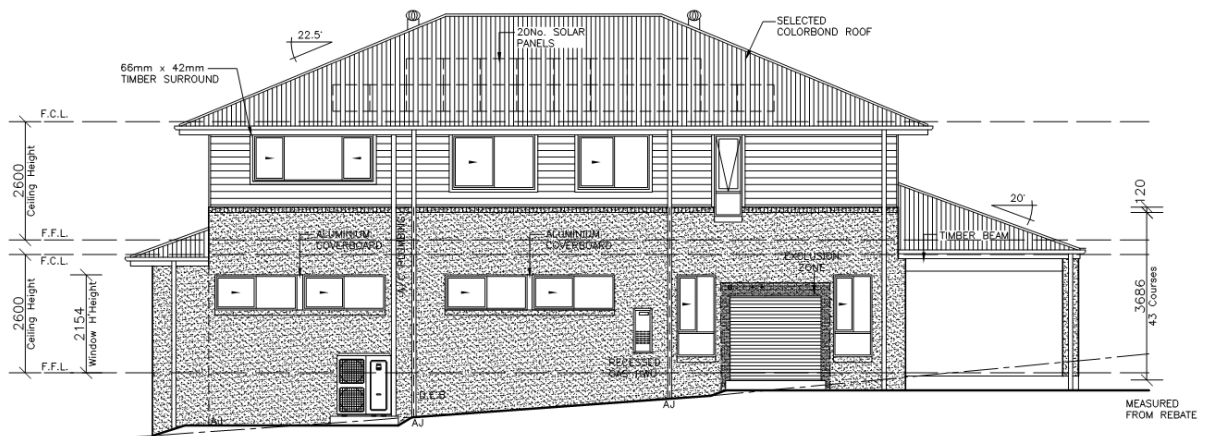


Acrylic Rendered Finish

NOTES:
FOR DROP-OFF'S REFER
TO FRAMING DETAILS
CDN 21.010-21.000



ELEVATION 3
(WEST)



ELEVATION 4
(NORTH)

CLIENT'S SIGNATURE: _____ DATE: _____

ClarendonHomes

BL No. 2298C
ABN 18 003 892 706

Clarendon Homes (NSW) P/L
21 Solent Circuit, Baulkham Hills NSW 2153
T: (02) 8864 6300

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INITIAL CONSTRUCTION

DRAWN: MP	DATE: 13.06.17	Rev: P
RATIO @ A3: 1:100	CHECKED: MP	
SHEET: 6	JOB No: 29912179	NSW