



2018/105153

<b>DA No.</b>	129/2016
<b>Site Address</b>	1 Fairlight Crescent, Fairlight Lot A DP 342163
<b>Proposal</b>	Section 96 to modify approved alterations and additions to the dual occupancy – Part 3
<b>Officer</b>	Claire Ryan

**Recommendation:**

## Approval

### Subject Property and surrounding area



The subject property is commonly known as 1 Fairlight Crescent, Fairlight and legally known as Lot A in DP 342163. The site is located on the eastern side of Fairlight Crescent. The property is irregular in shape, has a frontage of 36.525m to Fairlight Crescent and an overall site area of 496.1m<sup>2</sup>. The property currently contains a three-storey dual occupancy (under construction) with vehicular access via an existing driveway from Fairlight Crescent to an existing hardstand area to the side of the existing dual occupancy. The property slopes approximately 3.5m from north to south.

The adjacent property to the east, at 21 Lauderdale Avenue, is developed with a two-storey residential flat building. The adjacent property to the south, at 3 Fairlight Crescent, is developed with a two-storey residential flat building. Development in this area consists of multi-storey residential flat buildings and a mix of one- and two-storey detached dwellings.

### **Property Burdens and Constraints**

Sewer lines bisect the property in the rear southern and the south eastern corners. However, the sewer lines do not preclude the proposed modifications to the approved development.

### **Site History/Background**

Recent relevant applications on site include:

DA95/2014: Alterations and additions to an existing Residential Flat Building including demolition of the two (2) existing sets of access stairs, construction of new access stairs, addition of two (2) new terraces on the north and south of each unit and new pergola to Unit 2. Approved by DAU on 27 August 2014.

DA95/2014 – Part 2: Section 96 to modify approved Alterations and additions to an existing Dual Occupancy including demolition of the two (2) existing sets of access stairs, construction of new access stairs, addition of two (2) new terraces on the north and south of each unit and new pergola to Unit 2 – involving alterations to approved terraces, balustrades and barbeque area, and conversion of family room to a bedroom with additions of non-habitable rooms at Unit 1. Approved by DAU on 26 November 2014.

DA142/2014: Alterations and additions to an existing dual occupancy including a front fence. Approved by DAU on 14 January 2015.

DA49/2015: Alterations and additions to an existing dual occupancy including additions to the first floor with roof over the existing terraces, new lift, internal alterations, changes to windows and doors. Approved by DAU on 29 July 2015.

DA272/2016: Two (2) lot Strata subdivision of an existing Dual Occupancy. Approved under delegation on 12 December 2016.

DA129/2016: Alteration and addition to existing dual occupancy (attached) including a new third level addition with front and rear terraces, second level extension, a new enclosed stairwell and lift, changes to windows and doors, internal alterations, demolition of existing carport, construction of a double garage with four car stacker and removal of trees. Approved by MIAP on 15 December 2016.

DA129/2016 – Part 2: Section 96 to modify approved alterations and addition to existing dual occupancy (attached). Approved by NBIAP on 13 September 2017.

### **Description of proposed development**

The proposal seeks consent to modify Development Consent No. 129/2016 as follows:

- Modification of external materials and finishes; and
- Reconfiguration of first and second floors.

## **Internal Referrals**

### **Coastal Management Comments**

Council's Senior Coastal Management Officer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

### **External Referrals**

No external referrals were considered necessary.

## **Planning Comments**

### **Environmental Planning & Assessment Act 1979 – Section 79(C)(1)**

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) the provisions of:**
  - (i) any environmental planning instrument, and**

### **Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005:**

The subject property is located within the Sydney Harbour Catchment therefore the provisions of this plan apply to this development.

An assessment of the proposal against Clause 2(1) (aims of the SREP), Clause 13 (nominated planning principles) and Clause 21 (relating to biodiversity, ecology and environmental protection) has been undertaken. The proposal is considered to be consistent with the above provisions of the SREP. Given the scale of the proposed modification and the works proposed referral to the Foreshores and Waterways Planning and Development Advisory Committee was not considered necessary.

### **Manly Local Environmental Plan 2013**

The subject site is located in Zone R1 General Residential under the Manly LEP 2013. The proposed development is permissible within the zone with consent. An assessment of the proposal against the objectives of the Zone is included below:

#### **Zone R1 General Residential**

##### **Objectives of zone**

- *To provide for the housing needs of the community.*

The proposed modifications to the approved development retain the existing residential use of the site.

- *To provide for a variety of housing types and densities.*

The proposed modifications to the approved development retain the existing variety of housing and density within the area.

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

Not applicable. The proposed modifications to the approved development retain the existing residential use of the site.

### **Part 4 Principal development standards**

The provisions of the Manly LEP 2013 have been referred to as part of the assessment:

4.	Principal Development	Requirement	Approved	Proposed	Complies	Comments
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	Standards					
4.3	Height of buildings	8.5m	9.8m	Maximum: 9.8m	No – Existing	-
4.4	Floor Space Ratio	0.6:1 297.66m <sup>2</sup>	0.56:1 280m <sup>2</sup> (see note below)	0.56:1 280m <sup>2</sup>	Yes	-

**Note:** The Assessment Report for the previous modification application included an error, noting the GFA for the proposed development was 254sqm. This has been corrected to 280sqm.

#### 4.6 Exceptions to development standards

No variations to development standards are proposed.

#### Part 5 Miscellaneous Provisions

There are no relevant miscellaneous provisions under Part 5 of the Manly LEP 2013 to consider as part of this assessment.

#### Part 6 Local Provisions

There are no relevant local provisions under Part 6 of the Manly LEP 2013 to consider as part of this assessment.

**79C(1)(a)(ii) - any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved), and**

There is no applicable Draft Planning Instrument.

**79C(1)(a)(iii) - any development control plan, and**

#### Manly Development Control Plan 2013:

The following is an assessment of the proposal's compliance with the standards of the Development Control Plan. Where a variation is proposed to the standards, an assessment is included in the Planning Comments.

#### Part 3 General Principles of Development

Issues	Consistent with controls	Inconsistent with controls
Streetscape	✓	
Heritage – In Vicinity	NA	
Landscaping Design	NA	
Landscape/Tree Preservation	NA	
Sunlight Access and Overshadowing	✓	
Privacy and Security	✓	
Maintenance of Views	✓	

#### Comment:

##### 3.1 Streetscapes and Townscapes

##### Streetscape

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

The proposal does not further impose on the streetscape beyond the approved development. The proposed modification makes no changed to the existing and approved fence and car parking.

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

The proposed modification does not increase the overall height of the approved development, nor add any floor space, so retains the approved visual bulk and scale of the development, consistent with the streetscape.

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

No changes are proposed to the existing front fence as part of this application.

#### 3.4.1 Sunlight Access and Overshadowing

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

The proposed modification does not result in any additional overshadowing to adjacent properties or the subject site. Therefore, the modification allows for equitable access to light and sunshine.

*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.*

The modification does not impact upon private open spaces or windows to living spaces or habitable rooms on the subject site or adjacent sites, beyond that of the approved development

*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.*

The proposed modification to the approved development does not impact upon sunlight penetration to windows, living rooms or principal outdoor areas on the subject site or adjacent sites, beyond that of the approved development.

#### 3.4.2 Privacy and Security

*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.*

The proposed reconfigurations are appropriately designed for privacy in that windows and terraces remain orientated towards the street, rather than adjacent 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.*

The proposed modification provides adequate privacy without compromising access to light and air. The outlook and views from habitable rooms and private open space is balanced in that overlooking is minimised, but views from the subject site are still available.

*Objective 3) To encourage awareness of neighbourhood security.*

The proposed second floor addition includes windows to the street frontage and retains the existing first floor terrace, which faces the street, so encourages awareness of neighbourhood security through passive surveillance.

#### 3.4.3 Maintenance of Views

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

The proposed modifications to the approved development allow for view sharing for existing and proposed development and for existing and future residents.

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

The proposed modifications to the approved development do not result in disruption of views to and from public spaces and private property beyond that of the approved development.

*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.*

The proposed modifications to the approved development do not result in significant or unreasonable view creep.

#### **Part 4 - Development Controls**

There are no development controls under Part 4 of the Manly DCP 2013 to consider as part of this assessment.

#### **Part 5 - Special Character Areas and Sites**

<b>Special Character Areas and Sites</b>	<b>Applicable</b>	<b>Not Applicable</b>
Conservation Area		✓
Foreshore Scenic Protection Area	✓	
Threatened Species and Critical Habitat		✓
Flood Control Lots		✓
Riparian Land and Watercourses		✓
Road Widening		✓

#### **Comment:**

The proposed development is consistent with the Special Character Areas and Sites objectives and provisions in relation to the Foreshore Scenic Protection Area. The proposed development shall have minimal impact on the visual aesthetic amenity of the area.

**79C(1)(a)(iia)- any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and**  
No planning agreement has been entered into in relation to the proposed development.

#### **79C(1)(a) (iv) - the regulations**

The relevant prescribed regulations contained within the *Environmental Planning and Assessment Regulations 2000* are addressed through the imposition of suitable conditions.

#### **79C(1)(a)(v) - any coastal zone management plan (within the meaning of the Coastal Protection Act 1979)**

There is no Coastal Zone Management Plan applicable for the Manly area.

#### **79C(1) (b) - the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

The proposed development will not result in any unreasonable impact on the natural and built environments or any unreasonable social and economic impacts in the locality.

#### **79C(1) (c) - the suitability of the site for the development,**

The proposed development is suitable for the site.

#### **79C(1) (d) - any submissions made in accordance with this Act or the regulations**

The application was notified to nearby and adjoining property owners in accordance with Council's Development Control Plan 2013 Section 2.3 with no submissions received.

**79C(1) (e) - the public interest.**

The proposed development is in the public interest.

**S94 Contribution towards provision or improvement of amenities or services**

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 will not require the provision of or increase the demand for public amenities and public services in the area. As such, the payment of a monetary contribution is not required.

**Section 96(1A) of the Environmental Planning and Assessment Act 1979**

**(1A) Modifications involving minimal environmental impact**

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and
- (c) it has notified the application in accordance with:
  - (i) the regulations, if the regulations so require, or
  - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1), (2) and (5) do not apply to such a modification.

- (3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.
- (4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.



With regard to the above it is considered that the proposed modifications to the original consent, will result in substantially the same development for which consent was originally granted. The modifications requested were notified in accordance with Council's Manly DCP with no submissions received. All matters relating to the proposed modifications in terms of impact on have been considered. On balance, the proposed modifications are considered to be satisfactory for approval, subject to conditions.

### **CONCLUSION:**

The application has been assessed having regard to Section 79C and Section 96 of the Environmental Planning and Assessment Act 1979, the Manly Local Environmental Plan 2013 and the Manly Development Control Plan 2013 and is considered to be satisfactory for **Approval**, subject to conditions.

### **RECOMMENDATION**

That pursuant to Section 96 (1A) of the Environmental Planning and Assessment Act 1979, the proposed modification to Development Consent No. 129/2016 for alterations and additions to the dual occupancy at 1 Fairlight Crescent, Fairlight be **Approved** subject to:

#### **ANS01**

DELETED

#### **ANS02**

DELETED

#### **ANS03**

A detailed Construction Traffic Management Plan (CTMP) for the proposed development is to be prepared and submitted to the satisfaction of Certifying Authority, prior to the issue of the Construction Certificate. The CTMP will address the overall management of the site and parking arrangements for all construction and trade vehicles. All construction and trade vehicles, and goods/deliveries are to be parked/stored within the site where practicable and are not to obstruct vehicular or pedestrian access along Fairlight Crescent.

*Reason: To ensure equitable vehicular and pedestrian access and safety along Fairlight Crescent during the construction period.*

*The following Condition No. ANS04 is to be added as per Section 96(2) Application – Part 2 – determined on 13 September 2017:*

#### **ANS04**

An Erosion and Sediment Management Plan which provides adequate measures for erosion and sediment control, must be submitted with the Construction Certificate and approved by the Council/Accredited Certifier. The Erosion and Sediment Management Plan shall comply with the requirements for Erosion and Sediment Management plans contained with Clause 2.1.11 of the Manly Development Control Plan, 2013 and Manly Council's Guidelines for Sediment and Erosion Controls on Building Sites, 2005.

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

**The following Condition No. ANS05 (3MS01) is to be amended as per Section 96(1A) Application – Part 3:**

#### **ANS05 (3MS01)**

**Works in connection with this Section 96 modification are not to be commenced/carried out until a modified Construction Certificate is issued.**

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



## GENERAL CONDITIONS

### The following Condition No.1 is to be amended as per Section 96(1A) Application – Part 3 –

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

*Drawings affixed with Council's 'Development Consent' stamp relating to Development Consent No. 129/2016:*

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
D01/Site Plan	12 May 2016	27 May 2016
D02/Locality and Site Analysis	12 May 2016	27 May 2016
D10/Ground Floor Plan	12 May 2016	27 May 2016
D11/First Floor Plan	12 May 2016	27 May 2016
D12/Second Floor Level	Rev. A 16 November 2016	17 November 2016
D13/Roof Plan	Rev. A 16 November 2016	17 November 2016
D20/North & South Elevations	Rev. A 16 November 2016	17 November 2016
D21/West & East Elevations	Rev. A 16 November 2016	17 November 2016
D30/Sections	Rev. A 16 November 2016	17 November 2016
D50/Stacker Parker Details	March 2016	27 May 2016
D61/Landscape Area and Open Space Calculation	12 May 2016	27 May 2016
D62/Landscape Area and Open Space Calculation	12 May 2016	27 May 2016
D63/Landscape Area and Open Space Calculation	12 May 2016	27 May 2016
Landscape Plan: Proposed Additional Planting for Development Application	9 March 2016	27 May 2016

*Reference Documentation affixed with Council's stamp relating to Development Consent No. 129/2016:*

- Statement of Environmental Effects prepared by JV Urban dated 2016 and received by Council 27 May 2016
- BASIX Certificate No. A227797\_02 dated 25 January 2016 and received by Council 27 May 2016
- Pre-Development and Impact Tree Assessment prepared by Margot Blues Consulting Arborist dated 28 June 2016 and received by Council 27 May 2016

Except as amended by:

*Drawings affixed with Council's 'Development Consent' stamp relating to this Section 96(2) Application – Part 2 – determined on 13 September 2017:*

Plan No. / Title	Issue/ Revision & Date	Prepared By
D01 Site Plan	Rev. C 4 April 2017	Woodhouse & Danks
D10 Ground Floor Plan	Rev. A 4 April 2017	Woodhouse & Danks
D11 First Floor Plan	Rev. A 4 April 2017	Woodhouse & Danks
D12 Second Floor Level	Rev. C 4 April 2017	Woodhouse & Danks
D13 Roof Plan	Rev. C 4 April 2017	Woodhouse & Danks
D20 North & South Elevations	Rev. C 4 April 2017	Woodhouse & Danks

D21 West & East Elevations	Rev. C 4 April 2017	Woodhouse & Danks
D30 Sections	Rev. C 4 April 2017	Woodhouse & Danks

Except as amended by:

*Drawings affixed with Council's 'Development Consent' stamp relating to this Section 96(1A) Application – Part 3:*

Plan No. / Title	Issue/ Revision & Date	Prepared By
D01 Site Plan	24 October 2017	Woodhouse & Danks
D10 Ground Floor Plan	24 October 2017	Woodhouse & Danks
D11 First Floor Plan	24 October 2017	Woodhouse & Danks
D12 Second Floor Level	24 October 2017	Woodhouse & Danks
D13 Roof Plan	24 October 2017	Woodhouse & Danks
D20 North & South Elevations	24 October 2017	Woodhouse & Danks
D21 West & East Elevations	24 October 2017	Woodhouse & Danks
D30 Sections	24 October 2017	Woodhouse & Danks

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

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

## **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)

## **GENERAL CONDITIONS RELATING TO APPROVAL**

### **1 (1AP04)**

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

Reason: To ensure compliance with the approved development.

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

### **2 (2AP01)**

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

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

### **3 (2BM02)**

Roofing materials are to be factory pre-finished with a low glare surface and maximum reflectivity of 20% and be compatible with the colours of neighbouring buildings' roof colours. Colours listed as 'Very Light' in the BCA solar absorbance scale of colours in metal roofing cause glare issues therefore colours should be selected from 'Light' onwards. The applicant is to provide evidence with the Construction Certificate that the selected roofing material will not cause a glare nuisance or excessive reflectivity to adjoining or nearby properties.

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

#### 4 (2CD01)

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

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

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

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

#### 5 (2CD05)

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

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

#### 6 (2CD07)

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

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

#### 7 (2DS01)

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

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

#### 8 (2DS02)

A Stormwater Management Plan (SWMP) in line with Council's stormwater management guidelines and signed off by a practising Chartered Professional Engineer on the National Professional Engineer's Register (NPER) at Engineers Australia is to be submitted to the Council/Accredited Certifier, prior to issue of the Construction Certificate. The SWMP is to include but is not limited to the following:

- Increase in the impervious area (m<sup>2</sup>)
- Impervious percentage (%) post development
- Demonstration of no-adverse flooding issues to the downstream and upstream properties
- Peak flow rate to street drainage system in a 1:100 Average Recurrence Interval (ARI) flood event
- Connection details and location of the outlet drainage pipe, if applicable.

- If it is an absorption trench zone (Zone 2 as per Storm Water Management guidelines), then the detail calculations along with the soil report to be submitted for review by demonstrating no-adverse drainage issues due to this development.
- Details of the Chartered Engineer including full name, signature and registration number is required.

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

#### 9 (2FR01)

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

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

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

#### 10 (2MS01)

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

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

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

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

#### 11 (2PT01)

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

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

#### 12 (2PT02)

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

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

13 (2WM02)

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

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

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

## **CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT**

14 (3BM01)

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

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

15 (3CD01)

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

Reason: To ensure compliance with statutory provisions.

16 (3CD02)

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

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

17 (3CD03)

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

Reason: To protect the public interest and safety.

18 (3LD03)

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

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

19 (3PT01)

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

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

20 (3PT02)

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

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

## **CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

21 (4AP02)

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

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

22 (4BM01)

All materials and finishes of the proposed additions are to match, as closely as possible the material and finish of the existing building.

Reason: To enhance the visual quality of the development and the streetscape.

23 (4CD01)

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

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



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

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

#### 24 (4CD02)

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

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

Reason: To prevent disturbance to the surrounding community.

#### 25 (4CD03)

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

Reason: To maintain sanitary conditions on building sites.

#### 26 (4CD07)

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

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

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

The owner or occupier of the premises must consult an appropriately qualified and Australian Institute of Occupational Hygienists registered professional to undertake an assessment of the site to determine the potential for contamination. The owner or occupier must develop a management plan and be issued with Clearance Certificate before the commencement of any work.

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

#### 27 (4LD03)

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

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

28 (4LD04)

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

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

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

29 (4LD06)

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

Reason: To prevent/contain erosion.

30 (4MS04)

An approved Erosion and Sediment Management plan is to be implemented from the commencement of works and maintained until completion of the development.

The design and controls addressed in the Sediment and erosion management plan must comply with the criteria identified in:

- Manly Development Control Plan 2013, Amendment 2, and
- Manly Councils Guidelines for Sediment and Erosion Controls on building sites, 2005, and
- The document "Managing Urban Stormwater: Soils and Construction" Volume 1, 2004.

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

31 (4MS08)

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

Reason: To ensure adequate protection of property.

32 (4PT01)

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

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

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

33 (5DS01)

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

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

## **ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OR DEVELOPMENT**

34 (6LP03)

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

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

35 (6MS02)

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

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

36 (6NL03)

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

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