

## Development Assessment Unit Report

<b>DA No.</b>	279/2016
<b>Site Address</b>	10 Smith Street, Manly
<b>Proposal</b>	Alterations and additions to the existing semi-detached dwelling including first floor extension with Juliette balcony, internal alterations, changes to windows, a new hard stand car space and new gate to the rear fence.

<b><u>Application Lodged:</u></b>	12 October 2016
<b><u>Applicant:</u></b>	Ms J L Tunbridge
<b><u>Owner:</u></b>	Jill Tunbridge
<b><u>Estimated Cost:</u></b>	\$90,136.69
<b><u>Zoning:</u></b>	Manly Local Environmental Plan, 2013 – R1 General Residential
<b><u>Surrounding Development:</u></b>	One and two-storey detached and semi-detached dwellings.
<b><u>Heritage:</u></b>	The following heritage items are located within the vicinity of the subject site: <ul style="list-style-type: none"> <li>- Street Trees (Item I223)</li> <li>- All Stone Kerbs (Item I2)</li> </ul>
<b><u>NSW LEC:</u></b>	N/A

### **SUMMARY:**

1. DEVELOPMENT CONSENT IS SOUGHT FOR ALTERATIONS AND ADDITIONS TO THE EXISTING SEMI-DETACHED DWELLING INCLUDING FIRST FLOOR EXTENSION WITH JULIETTE BALCONY, INTERNAL ALTERATIONS, CHANGES TO WINDOWS, A NEW HARD STAND CAR SPACE AND NEW GATE TO THE REAR FENCE.
2. THE APPLICATION WAS NOTIFIED TO ALL ADJOINING AND NEARBY PROPERTY OWNERS WITH TWO SUBMISSIONS RECEIVED.
3. THE APPLICATION INCLUDES A VARIATION TO THE FLOOR SPACE RATIO DEVELOPMENT STANDARD OF 35.4% (29m<sup>2</sup>).
4. SITE INSPECTION WAS CONDUCTED ON 11 NOVEMBER 2016.
5. THE APPLICATION IS RECOMMENDED FOR **APPROVAL**.

### **Subject Property and surrounding area**

The subject property is commonly known as 10 Smith Street and legally known as Lot B in DP 121510. The site is located on the eastern side of Smith Street. The property is rectangular in shape and has a frontage of 4.8 m to Smith Street, an average depth of 30.4m and an overall site area of 136.5m<sup>2</sup>. The property currently contains a two-storey semi-detached dwelling with no vehicular access. The property is relatively flat.

The adjacent developments include single-storey semi-detached dwellings at No. 8 and No. 12 Smith Street. The surrounding area is characterised by one and two-storey detached and semi-detached dwellings.

### **Property Burdens and Constraints**

There are no burdens or constraints that would preclude the proposed development.

### **Description of proposed development**

The proposal includes alterations and additions to the existing semi-detached dwelling including first floor extension with Juliette balcony, internal alterations, changes to windows, a new hard stand car space and new gate to the rear fence.

### **Applicant's Supporting Statement**

The applicant has provided a Statement of Environmental Effects received by Council on October 12 in support of the application.

### **Contact with relevant parties**

The assessing officer met with the applicant on 11 November 2016.

The officer has been in regular contact with the applicant throughout the assessment process.

### **Internal Referrals**

#### **Engineering Comments**

Council's Engineer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

#### **Building Comments**

Council's Building Surveyor offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

#### **Landscaping Comments**

Council's Landscape Officer has commented on the proposal as follows:

*"ANS  
Retain and protect during construction the tree located in the rear yard on the eastern boundary".*

Comment:

The non-standard condition of consent ANS03 is included in response to this landscape comment.

The Council's Landscape Officer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

#### **Heritage Comments**

Council's Heritage Officer has commented on the proposal as follows:

*"While there are no heritage issues with the proposal it is considered to be disappointing that the applicant did not take the opportunity to address the visibility of the apex of the existing second floor extension, from Smith Street, as part of this application."*

Council's Heritage Advisor offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

#### **Waste Comments**

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

#### **Traffic Comments**

Council's Traffic Engineer offered no objections to the proposal, subject to the imposition of recommended conditions of consent.

#### **Driveway Comments**

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

## 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*

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

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

Under the Manly LEP 2013, the site is:

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

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

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

The proposed development is for alterations and additions to a semi-detached dwelling and therefore is considered to meet this objective.

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

The proposed development is considered to increase the variety of housing types.

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

The proposed development allows for other land uses to exist in the zone and to provide facilities and services.

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

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

<b>4.</b>	<b>Principal Development Standards</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Complies Yes/No</b>	<b>Comments</b>
4.3	Height of buildings	8.5m	7m	Yes	
4.4	Floor Space Ratio	0.6:1 (81.9m <sup>2</sup> )	0.81:1 (110.9m <sup>2</sup> )	No	See comment below

#### **4.6 Exceptions to development standards**

Council/Consent Authority may consider a variation, where that variation would achieve a better outcome.

##### *Comment:*

The proposed development exceeds the floor space ratio development standard. The applicant has submitted a written application to vary the development standard pursuant to Clause 4.6 of the Manly LEP. The application claims that the development standard would hinder the efficient development of the site and that there are sufficient environmental planning grounds to justify an exception to the development standard for the following reasons:

- The undersized nature of this lot doesn't allow for additions.
- The adjacent semi-detached cottage (No.8) has a first floor extension of the same or similar size so there is a precedent.
- The new FSR complies with the variation in the DCP.

In this case, compliance with the development standard is considered unreasonable due to the undersized nature of the lot. The proposed development is on a site which is classified as an undersized lot under Clause 4.1.3.1 of the Manly DCP, having a FSR of 0.44:1 when the maximum variation to lot size of 250m<sup>2</sup> is applied. Under this provision of the DCP, the proposed development is compliant with the standard of 0.6:1 provided by the Manly LEP, 2013.

The proposal is considered to be consistent with the LEP objectives of Clause 4.4 for FSR, Clause 4.6 for Exceptions to Development Standards and the objectives of Zone R1 – General Residential for the following reasons:

#### **4.4 Floor space ratio**

(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,*

The proposed addition is significantly smaller in scale than the existing dwelling. Therefore, the bulk and scale of the development will not be substantially increased, and is considered to be consistent with the existing and desired streetscape. Additionally, the proposed works are to be located behind the roof line and existing first floor, so are not generally visible from the 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,*

The proposed addition is not generally visible from the street and does not obscure and landscape or townscape features.

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

The proposed works are to take place behind the existing roof line and first floor and will have no unreasonable impacts of the character and landscape of the area.

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

The proposal, as conditioned, will have no unreasonable impacts on adjoining land or 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.*

N/A

(2) *The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*

See Clause 4.6.

(2A) *Despite subclause (2), the floor space ratio for a building on land in Zone B2 Local Centre may exceed the maximum floor space ratio allowed under that subclause by up to 0.5:1 if the consent authority is satisfied that at least 50% of the gross floor area of the building will be used for the purpose of commercial premises.*

N/A

#### **4.6 Exceptions to development standards**

(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,*

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

The proposal is consistent with the objectives of LEP Clause 4.6. In this case, flexibility in the application of development standards will achieve a better outcome by allowing a first floor addition a practical scale.

**Zone R1 General Residential**

**1. Objectives of zone**

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

The proposal is consistent with the objectives of Zone R1 – General Residential as it provides for the housing needs of the community, increases the variety of housing types and density, and enables other land uses for the needs of residents.

As a result of this reasoning, the application to vary the floor space ratio development standard is considered to be justified and well founded, and is supported.

**Part 5 Miscellaneous Provisions**

The relevant provisions of the Manly LEP 2013 are referred to below as part of this assessment:

5.	Miscellaneous Provisions	Applies	Complies	Comments
5.9	Preservation of trees or vegetation	Yes	Yes	N/A
5.10	Heritage Conservation	Yes	Yes	N/A

**Part 6 Local Provisions**

The relevant provisions of the Manly LEP 2013 are referred to below as part of this assessment:

6.	Local Provisions	Applies	Complies	Comments
6.1	Acid Sulphate Soils	Yes	Yes	Class 4 Acid Sulphate Soils. Proposed works comply with the restrictions of Clause 6.1.
6.2	Earthworks	Yes	Yes	No significant earthworks are proposed.
6.4	Stormwater Management	Yes	Yes	Subject to conditions.
6.12	Essential services	Yes	Yes	Essential services are existing at the subject site.

**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 (Amendment 8)**

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 principle	Inconsistent with principle
Streetscape	✓	
Heritage – In Vicinity	✓	
Sunlight Assess and Overshadowing	✓	
Privacy and Security	✓	
Maintenance of Views	✓	

#### Comment

##### Sunlight Access and Overshadowing

The proposed works will cause minimal additional overshadowing of adjacent properties. The proposal is compliant with the provisions of Clause 3.4.1.1 and Clause 3.4.1.2, and is consistent with the objectives of Clause 3.4, as assessed below:

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

The proposed works will cause minimal additional overshadowing of adjacent properties, and is considered to be reasonable.

*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 proposed addition will not cause any additional overshadowing of the development site's private open space. The subject dwelling is located within a row of four semi-detached dwellings. Therefore, the proposed works are considered to allow adequate sunlight to penetrate the private open spaces and windows to the living spaces/ habitable rooms of both the development and the adjoining properties.

*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.*

Taking into account that the subject site and adjacent sites contain semi-detached dwellings, the design of the proposed development is considered to facilitate sufficient sunlight penetration to windows, living rooms and principal outdoor areas, and to properties to the south.

##### Privacy and Security

The proposed development is consistent with the provisions of Clause 3.4.2.1 as all windows are suitably located or treated in order to mitigate any privacy issues. The proposed Juliette Balcony is located off a bedroom, is minimal in scale, and has sufficient physical separation from the adjacent rear yards. Therefore, it is not considered to have any unreasonable impacts in relation to privacy, and no architectural or landscape screens are required under Clause 3.4.2.2. The proposal is consistent with the objectives of Clause 3.4.2.

#### Part 4 - Development Controls

Site Area: 136.5 m <sup>2</sup>	Permitted/ Required	Proposed	Complies Yes/No
Residential Density – Area D3	250m <sup>2</sup> of site area per dwelling	136.5m <sup>2</sup> of site area per dwelling	Existing
Wall height north side	6.5m	6.15m	Yes
Wall height south side	6.5m	5.65m	Yes
Number of Storeys	2	2	Yes
Roof height	8.5m	7.35m	Yes
Setback Front	6.0m or streetscape	0m (Existing)	Yes (Streetscape)
North side setback (first floor)	2.05m	0m	No (see comment)
South side setback (first floor)	1.9m	0.8m	No (see comment)
Wall on north boundary height	3m	6.15m	No (see Wall on Boundary comment)
Wall on north boundary length	10.64m	11.2m	No (see Wall on Boundary comment)
Setback Rear	8.0m	6.2m	Existing
Open space - total	Min. 55% of site area (75.1m <sup>2</sup> )	8.9% (12.17m <sup>2</sup> )	No (see Open Space comment)
Open space - soft	Min. 35% of total open space (4.26m <sup>2</sup> )	23.8% (2.9m <sup>2</sup> )	No (see Open Space comment)
Number of Endemic Trees	N/A	N/A	N/A
Private Open Space	12m <sup>2</sup>	0m <sup>2</sup>	No (see Open Space comment)
Car Parking – Residents	1 Space	1 Space	Yes
Fence height	1m	Not proposed	N/A

## **Comment**

### North Side Setback – First Floor

The proposed first floor setback on the northern side does not comply with the numerical requirement of Clause 4.1.4.2. Clause 4.1.7.1 states that first floor additions may follow the existing ground floor setbacks where the amenity of adjacent development is not affected. The development, as modified by conditions of consent, is consistent with the objectives of Clause 4.1.4 in maintaining the existing streetscape, providing privacy, equitable light and air access, and flexibility in the siting of buildings.

### South Side Setback – First Floor

The proposed first floor setback on the southern side does not comply with the numerical requirement of Clause 4.1.4.2. Clause 4.1.7.1 states that first floor additions may follow the existing ground floor setbacks where the amenity of adjacent development is no affected. The development, as modified by conditions of consent, is consistent with the objectives of Clause 4.1.4 in maintaining the existing streetscape, providing privacy, equitable light and air access, and flexibility in the siting of buildings.

### Wall on North Boundary- First Floor

The proposed first floor addition exceeds the height and length provisions of Clause or 4.1.4.3. However, it is consistent with the relevant objectives of Clause 4.1.4 as it will not have any unreasonable impacts on local amenity. The subject dwelling is semi-detached. The first floor extension is proposed to only one side boundary and follows the line of the existing ground floor party wall and maintains the height of the existing first floor wall. It does not contain any windows and the finish is to match the existing first floor wall, minimising the impact on the adjacent property's amenity.

### Open space

The proposed development does not meet the open space requirements of Clause 4.1.5.1, 4.1.5.2, or 4.1.5.3. However, the total open space and soft open space non-compliances are existing. While there will be a reduction the amount of total open space and private open space, there is no reduction to soft open space. Therefore the proposal is consistent with the objectives of Clause 4.1.5.

## **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		✓
Gurney Crescent and Clavering Road, Seaforth		✓



**Comment:**

Conservation Area

The proposed development is consistent with the objectives of Part 5 and the provisions of Clause 5.2.2 of the MDCP 2013. The form and nature of the works ensure that there will be no unreasonable impact on the amenity of the locality or preservation of the streetscape, and no increase in vehicular movements will result from the development. Council's Heritage Advisor stated that the proposal is satisfactory from a heritage perspective, subject to the imposition of recommended conditions of consent.

**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 as modified by the conditions of consent is not considered to have 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 as modified by the conditions of consent is considered to be 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 Section 2.2 of Council's Development Control Plan 2013 (Amendment 8) with TWO submissions received from the following objectors raising the following concerns:

1. L. Clark & K. Dolly, 12 Smith Street
2. Confidential
  - Privacy and overlooking impacts associated with the proposed Juliette balcony/ Window W6.
  - Privacy/overlooking impacts on adjacent windows and private open space caused by Window W5.
  - Structural concerns relating to construction on top of the existing party wall.
  - Request for a dilapidation report to be prepared.
  - Request for an inspection of No. 8 and No. 12 Smith Street by an independent engineer.

*Comment on submissions:*

- The proposed Juliette balcony only extends 200mm from the first floor wall. Additionally, it is located off a bedroom, so its intensity of use will be consistent with that of a bedroom. Any potential privacy/overlooking impacts of the adjacent properties are further mitigated by the distance between the proposed balcony and the adjacent rear yards, and are considered to be reasonable.
- The non-standard condition of consent ANS01 has been added to condition Window W5 to either have a minimum sill height of 1.6m above finished floor level or be frosted/translucent, in order to minimise potential privacy/overlooking impacts.
- The non-standard condition of consent ANS02 states that the proposed development is to be independently supported and not rely on the party wall for lateral or vertical support.

- The standard condition of consent 2CD02 requires the preparation of a dilapidation report for the subject dwelling prior to the issue of a construction certificate.
- Inspection of the adjacent properties by an independent engineer is beyond the scope of this development assessment. However, the owners of the adjacent properties can independently engage an engineer at their own expense.

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

The proposed development as modified by the conditions of consent is not considered to have any unreasonable impact on 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 dedication of land free of cost and the payment of a monetary contribution are not required.

**CONCLUSION:**

The application has been assessed having regard to Section 79C of the Environmental Planning and Assessment Act 1979, Manly Local Environmental Plan 2013 and the Manly Development Control Plan 2013 (Amendment 8) and is considered to be satisfactory for **approval**, subject to conditions.

**RECOMMENDATION**

In consideration of the written request made by the applicant pursuant to Clause 4.6 of the Manly Local Environmental Plan 2013, the consent authority is satisfied that compliance with the development standard contained in Clause 4.4 (Floor Space Ratio) of the Manly Local Environmental Plan 2013 is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify contravening the development standard.

That Development Application No. 279 for alterations and additions to the existing semi-detached dwelling including first floor extension with Juliette balcony, internal alterations, changes to windows, a new hard stand car space and new gate to the rear fence at 10 Smith Street be **Approved** subject to the following conditions:-

**ANS01**

**The first floor window W5 is to either:**

- i) Have a minimum sill height of 1.6m above finished floor level; or**
- ii) Be frosted/translucent to a height of 1.6m above finished floor level.**

**Plans demonstrating compliance with this condition are to be submitted to the Council/Accredited Certifier prior to the issue of a Construction Certificate.**

**Reason: To maintain visual privacy for the adjacent property at 229 Pittwater Road, while allowing adequate light for the subject site.**

## ANS02

Prior to the issue of the Construction Certificate, a practising structural engineer is to certify that the proposed development will be independently supported and not rely on the party wall for lateral or vertical support.

**Reason: To ensure that the existing party wall will not take any additional load and that the proposed development is independently supported. Owner's consent from the owner of the adjoining semi-detached dwelling at No. 12 Smith Street has not been obtained.**

## ANS03

Retain and protect during construction the tree located in the rear yard on the eastern boundary.

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

## DA1

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. 279:*

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
DA-01 / Site Plan, Site Analysis Plan	August 2016	12 October 2016
DA-02 / Demolition	August 2016	12 October 2016
DA-03 / Floor Plans	August 2016	12 October 2016
DA-04 / Elevations (North & South)	August 2016	12 October 2016
DA-05 / Elevations (East & East Fence)	August 2016	12 October 2016
DA-06 / Section	August 2016	12 October 2016

*Reference Documentation affixed with Council's stamp relating to Development Consent No. 279:*

- Statement of Environmental Effects received by Council 12 October 2016.
- BASIX Certificate No. A255614 dated 4 August 2016 and received by Council 12 October 2016.

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

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

## GENERAL CONDITIONS RELATING TO APPROVAL

### 1 (1AP04)

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

**Reason: To ensure compliance with the approved development.**

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

### 2 (2AP01)

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

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

### 3 (2CD01)

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

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

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

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

### 4 (2CD02)

A Dilapidation Report is required for this development. A photographic survey of adjoining properties detailing the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other such items, is to be submitted to Council and the Accredited Certifier (where Council does not issue the Construction Certificate) prior to the issue of the Construction Certificate. This survey is to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining property/ies.

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

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

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

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

### 5 (2CD05)

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

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

### 6 (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 (2FP02)

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

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

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

Reason: To facilitate suitable vehicular access to private sites.

#### 9 (2FP03)

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

Reason: To ensure structures are contained within the site.

#### 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 (2PT03)

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

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

14 (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**

15 (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.

16 (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.

17 (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.

18 (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.

19 (3FP01)

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

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

20 (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.

21 (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**

22 (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.

23 (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.

24 (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.

#### 25 (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.

#### 26 (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.

#### 27 (4CD07)

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



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

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

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.

28 (4FP01)

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

Reason: To ensure appropriate access and infrastructure protection.

29 (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.

30 (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.

31 (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.

32 (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.

## **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.

34 (5FP01)

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

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

35 (5FR01)

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

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

36 (5US01)

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

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

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

37 (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.