

Delegated Authority Report

2018/141209

DA #	261/2015 – Part 2
Site Address	2 Spring Cove Avenue, Manly. Lot 11 in DP 1189590
Proposal	Section 96 to modify approved dwelling house – Part 2.
Officer	Adam Croft

SUMMARY:

Application Lodged:

15 November 2017

Applicant:

Bridget Little

Owner:

Trustees Roman Catholic Church Archdiocese Sydney

Estimated Cost:

\$1,746,250.00

Zoning:

MLEP, 2013 – E4 Environmental Living

Heritage:

The subject site is part of Heritage Item I131 – St Patrick's Estate (Archbishop's Residence Ground). Heritage items in the vicinity include:

- Item I230 – Public Reserve and two Norfolk Island Pines
- Item I175 – North Head

NSW LEC:

N/A

Notification:

16 November 2017 to 4 December 2017

Submissions received:

No submissions received

Site Inspected:

27 February 2017

LEP (4.6) Variations proposed:

N/A

DCP Variations proposed:

N/A

Recommendation:

Approval

Subject Property and surrounding area



Note: Nearmap photography was used as Sea photography does not show the current site context.

The subject property is commonly known as 2 Spring Cove Avenue, Manly and legally known as Lot 11 in DP 1189590. The site is located on the southern side of Spring Cove Avenue. The property has a frontage of 12.2m to Spring Cove Avenue, an average depth of 43m and an overall site area of 860.3m². The property currently contains a partially constructed two-storey dwelling. The property slopes approximately 7.8m from north (front) to south (rear).

The adjoining developments include a detached dwelling at No. 4 Spring Cove Avenue and a semi-detached dwelling at No. 85 Wood Street.

The surrounding area is characterised by detached and semi-detached dwellings and residential flat buildings.

Property Burdens and Constraints

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

Site History/Background

DA482/2004 – Part 1 – Approved.

DA261/2015 – Part 1 – Construction of a new two (2) storey dwelling house with double garage, in-ground swimming pool and landscaping – Approved.

Description of proposed development

The proposal includes modifications as follows:

- Changes to the lower ground floor storage area
- Increased front setback to garage and addition of storage area
- Reduction in the size of the master bedroom deck
- Changes to saw-tooth roof form
- Changes to swimming pool
- Changes to doors and windows

Internal Referrals

Heritage Comments

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

"The application is a S.96, substantially the same as the originally approved DA. Therefore, it is fair to assess that impact of the current proposal will be closely similar to the impact of the previously approved DA. Based on the above, I have no objection to this proposal from heritage perspective and deem heritage conditions not required."

Natural Resources Comments

Council's Natural Resources 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**

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005:

The subject property is located within the Foreshores and Waterways Area therefore the provisions of this plan apply to this development.

An assessment of the proposal against Clause 2(2) (aims of the SREP), Clause 14 (nominated planning principles), Clause 22 (relating to public access to and use of foreshores and waterways), Clause 23 (relating to maintenance of a working harbour), Clause 24 (relating to interrelationship of waterway and foreshore uses), Clause 25 (relating to foreshore and waterways scenic quality), Clause 26 (relating to maintenance, protection and enhancement of views) and Clause 27 (relating to boat storage facilities) 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 E4 Environmental Management under the Manly LEP 2013. The proposed development is considered permissible within the zone with consent. An assessment of the proposal against the objectives of the Zone is included below:

Zone E4 Environmental Living

Objectives of zone

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.*

The proposed modification retains the existing low-impact residential use.

- *To ensure that residential development does not have an adverse effect on those values.*

The proposed modification will not unreasonably impact the ecological, scientific or aesthetic values present at the site.

- *To protect tree canopies and ensure that new development does not dominate the natural scenic qualities of the foreshore.*

The proposed modification will not unreasonably impact the tree canopy or the scenic qualities of the foreshore.

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

The proposed modification is consistent with the approved development and will not unreasonably impact nearby foreshores, geological features or bushland.

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

The proposed works are separated from the foreshore and are conditioned to ensure appropriate management of erosion and sedimentation.

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

The proposed modification retains the previously approved building height.

Part 4 Principal development standards

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

4.	Principal Development Standards	Requirement	DA Approved	Proposed	Complies
4.3	Height of buildings	8.5m	7.7m	No proposed change	Yes
4.4	Floor Space Ratio	0.6:1 516.18m ²	0.43:1 370.5m ²	0.43:1 369.66m ²	Yes

Floor Space Ratio

The DAU Planner's Report for DA261/2015 – Part 1 FSR calculations were incorrect and have been corrected in the above table.

Part 5 Miscellaneous Provisions

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

5.	Miscellaneous Provisions	Applies	Complies	Comments
5.10	Heritage Conservation	Yes	Yes	Council's Heritage Officer had no objections to the proposed modification.

Part 6 Local Provisions

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

6.	Local Provisions	Applies	Complies	Comments
6.2	Earthworks	Yes	Yes	The proposed excavation will not differ significantly from the approved DA.
6.4	Stormwater Management	Yes	Yes	Subject to conditions.
6.5	Terrestrial Biodiversity	Yes	Yes	The proposed development generally retains the existing building footprint and Council's Natural Resources Officer raised no objections to the proposed development.
6.9	Foreshore Scenic Protection Area	Yes	Yes	The proposed modifications are minor and will have no unreasonable impact on visual aesthetic amenity or views to and from Sydney Harbour.
6.12	Essential services	Yes	Yes	Existing at the 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:

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	✓	
Landscaping Design	✓	
Landscape/Tree Preservation	✓	
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 proposed modification includes an increased front setback which will reduce the visual impact of the development on the street frontage. The additional footprint to the side of the garage is generally contained towards the rear of the garage and will not unreasonably impact the frontage.

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

The proposed changes to the garage will not significantly alter the appearance of the garage, which remains consistent with the streetscape.

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

No front fence is included in the modification application.

3.2 Heritage Considerations

Objective 1) To retain and conserve environmental heritage and cultural significance of Manly including:

- *significant fabric, setting, relics and view associated with heritage items and conservation areas;*
- *the foreshore, including its setting and associated views; and*
- *potential archaeological sites, places of Aboriginal significance and places of natural significance.*

Objective 2) To ensure any modification to heritage items, potential heritage items or buildings within conservation areas is of an appropriate design that does not adversely impact on the significance of the item or the locality.

- Objective 3) To ensure that development in the vicinity of heritage items, potential heritage item and/ or conservation areas, is of an appropriate form and design so as not to detract from the significance of those items.*
- Objective 4) To provide infrastructure that is visually compatible with surrounding character and locality/visual context with particular regard to heritage buildings/areas and cultural icons.*
- Objective 5) To integrate heritage management and conservation into the planning development process including incentives for good heritage management, adaptive reuse, sustainability and innovative approaches to heritage conservation.*
- The extent of the proposed modification is minor and Council's Heritage Officer raised no objections.

3.3.1 Landscaping Design

Objective 1) To encourage appropriate tree planting and maintenance of existing vegetation.
No tree planting or removal is included in this modification.

Objective 2) To retain and augment important landscape features and vegetation remnant populations of native flora and fauna.
No important landscape features or vegetation are proposed to be removed.

3.4.1 Sunlight Access and Overshadowing

The proposed modification largely retains the approved building envelope. Therefore, there will be minimal change to the overshadowing impacts from the approved DA.

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 modification does not include any changes to windows or doors on the upper floor and the proposed changes to the swimming pool will result in no unreasonable privacy impacts.

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 proposal provides sufficient privacy and sunlight access to the subject site and adjoining properties.

Objective 3) To encourage awareness of neighbourhood security.
The proposal retains opportunities for passive surveillance.

3.4.3 Maintenance of Views

The proposed modification will result in no further view loss impacts on the surrounding properties. The approved ridge height is retained and the only change proposed to the rear of the upper floor is the reduction in size of the deck off the master bedroom.

Part 4 - Development Controls

Site Area:	860.3m ²	Permitted/ Required	DA Approved	Proposed	Complies Yes/No
Residential Density – Area D3		250m ² of site area per dwelling	860.3m ² of site area per dwelling	No change proposed	N/A
Wall height North Western side		6.5m	5.5m	No change proposed	N/A
Wall height South Eastern side		6.5m	2.55m	No change proposed	N/A
Number of Storeys		2	2	No change proposed	N/A

Site Area:	860.3m ²	Permitted/ Required	DA Approved	Proposed	Complies Yes/No
Roof height	2.5m/600m	2.0m	2.0m	No change proposed	N/A
North western setback side	1.8m	5.0m	5.0m	No change proposed	N/A
South eastern setback side	0.85m	2.0m	2.0m	No change proposed	N/A
Setback Rear	8.0m	6.0m	6.0m	No change proposed	N/A
Open space - total	55% (473.16m ²)	59.5% (507m ²)	59.5% (507m ²)	57.4% (493.5m ²)	Yes
Open space - soft	35% (177.4m ²)	38.5% (330.6m m ²)	38.5% (330.6m m ²)	No change proposed	N/A
Number of Endemic Trees	3	3- subject to conditions	3- subject to conditions	No change proposed	N/A
Private Open Space	>18m ²	>18m ²	>18m ²	>18m ²	N/A
Car Parking – Residents	2 spaces	2 spaces	2 spaces	No change proposed	N/A
Swimming pool height	1m	1m	1m	No change proposed	N/A
Swimming pool setbacks water's edge	1m	1.5m	1.5m	No change proposed	N/A
Swimming pool setbacks pool concourse / deck	1.5m	1.5m	1.5m	No change proposed	N/A

Comment:

Wall height

The DAU Planner's Report for DA261/2015 – Part 1 wall height measurements were incorrect and have been corrected in the above table.

Part 5 - Special Character Areas and Sites

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

Comment:

Foreshore Scenic Protection Area

The proposed modifications are minor and will have no unreasonable impact on visual aesthetic amenity or views to and from Sydney Harbour.

Threatened Species and Critical Habitat

The proposed development generally retains the existing building footprint and Council's Natural Resources Officer had no objections to the proposed development.

Development Control Plan for Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 Sydney Harbour Foreshores & Waterways Areas:

The proposed development is consistent with the relevant controls of Clauses 2.2, 3.4, 4.2, 4.4 and 4.5 of the Sydney Harbour Foreshores & Waterways Areas Development Control Plan for Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

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 will not 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 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 with no submissions received.

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

The proposed development as modified by the conditions of consent will not 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.

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. 261/2015 for Section 96 to modify approved dwelling house – Part 2 at 2 Spring Cove Avenue, Manly be **approved** subject to:

ANS01

No works (including placement of artificial turf or hard landscaping e.g. pavers or stepping stones) are to be permitted in the approved Bandicoot Habitat Zone. Rehabilitation of the site is to be undertaken in accordance with the approved Habitat Rehabilitation Plan for the Spring Cove Development.

Reason: To ensure protection of bandicoot habitat as required in the Species Impact Statement for the Spring Cove Development (Ecosense, 2005).

ANS02

The proposed pool fence and gate must be relocated such that an access-way for bandicoots from the Bandicoot Habitat Zone must be provided to potential habitat located towards the northern side of the proposed pool. Plans are to be amended accordingly prior to the issue of the Construction Certificate.

Reason: To enable access to, from and through the site to ensure no further fragmentation of Long-nosed Bandicoot habitat in accordance with Section 5.3.3 (a) and (b) of the Manly DCP (2013).

ANS03

The proposed planting beyond the north-eastern edge of the ground floor terrace adjoining the lounge room shall not be capable of exceeding a height of RL32.57 at maturity. The Landscape Plan is to be amended accordingly prior to issue of the Construction Certificate.

Reason: To be consistent with view sharing principles.

ANS04

The Port Jackson Fig (*Ficus rubiginosa*) must be retained. An arborist must be engaged to treat the existing tree to improve the current condition, health and vigour of the tree to ensure its longevity. Written/photographic evidence must be provided to Council's Natural Resources Branch of the arborist's treatment prior to the issue of the Occupation Certificate.

Reason: This tree was earmarked for retention in accordance with approved DA482/2004. The Port Jackson Fig provides foraging habitat for the vulnerable Grey-headed Flying-fox.

ANS05

A plan is to be provided to Council, prior to the occupation of any dwelling, detailing the areas of the site which have been set aside for bandicoot corridors and feeding areas. That plan is to be of sufficient detail to indicate to future residents of the Estate the location of such areas.

Reason: To ensure protection of bandicoot habitat as required in the Species Impact Statement for the Spring Cove Development (Ecosense, 2005).

ANS06

The Bandicoot Construction Protocol as outlined in Appendix 7 of the Fauna and Flora Assessment submitted as part of this Development Application is to be implemented prior to and during excavation, earthworks, vegetation clearing or construction.

Reason: This is a recommended mitigation measure outlined in the Flora and Fauna Assessment and TBR (prepared by Total Earth Care Pty Ltd, dated July 2015) that forms part of this Development Application.

ANS07

The Bandicoot Construction Protocol is to be appropriately understood by all appropriate persons associated with the site works and strictly enforced by an appropriately qualified and experienced environmental consultant. Ongoing monitoring of these measures during the construction phase, with implementation of a series of post-construction and occupation measures must be appropriately documented and provided to the Council/Accredited certifier.

Reason: To ensure compliance with the Bandicoot Construction Protocol.

ANS08

The owner must ensure that legally binding agreements are entered into with the occupants of all lots, including strata lots, preventing the keeping of or the presence of dogs and cats on the Estate.

Reason: To ensure protection of bandicoot individuals from predation by cats and dogs.

ANS09

Ongoing management and regular maintenance of the 20 metre wide bandicoot zone is to be managed by the owners of the St Patrick's Estate of the area to be carried out by a landscape contractor responsible for the comprehensive maintenance of the bandicoot corridor generally comprising native plants, lawn and an interface between shrubs and grass preferred by bandicoots.

Reason: To ensure protection of bandicoot habitat as required in the Species Impact Statement Species Impact Statement for the Spring Cove Development (Ecosense, 2005).

ANS010

An educational program and manual on the conservation of the bandicoot population be provided to all new residents and the landscape contractors within the Estate. It is also recommended that the Suggested Managed Measures also be made available with the consent to each dwelling and are to include the following matters.

- Bandicoots and other native animals should not be fed artificial foods as it may cause them nutritional problems, hardship if supplementary feeding is stopped, and it may increase predation. Feral animals such as cats or foxes should never be fed or food left out where they can access it such as rubbish bins without lids.
- The use of insecticides, fertilisers, snail baits or similar are to be avoided on the property. Garden insects will be kept in low numbers if Bandicoots are present.
- Deceased Long-nosed Bandicoots should be reported by phoning Manly Council on 9976 1500 or the NSW Office of the Environment & Heritage (OEH) Park and Wildlife Sydney Harbour North Area (tel. 9960 6266).
- Care should be used when driving in this area and notices to this effect be located at the entry to the development and throughout.

Reason: To ensure residents are aware of the bandicoot protection measures incorporated within the Estate and to ensure that residents adhere to such protective measures.

ANS11

The leasehold title documents must contain lease Covenants that form part of the lease which:

- Incorporates the Fuel Management Plan for precincts 5, 6 and 10 dated November 2005 prepared by Building Code & Bushfire Hazard Solutions P/L. Present and future landholders are required to follow the Plans recommendation by way of a lease covenant so as to reduce the potential fire hazard within their property during fire events and to preserve the habitat requirements of the local bandicoot population.
- Prevents alterations to planting and removal of vegetation.
- Allows an estate manager to enter all properties for the purposes of managing bandicoot habitat.
- Ensures the management of the rear 10m setback is integrated with other vegetated links within the Estate.

Reason: To ensure bandicoot habitat is maintained and retained on site in perpetuity.

ANS12

Contracts of sale must contain a bandicoot information sheet that informs and seeks to educate residents in regards the importance of the North Head Bandicoot Habitat.

Reason: To ensure residents understand the conservation significance of the endangered population of Long-nosed Bandicoots at North Head and the importance of protecting and enhancing bandicoot habitat.

ANS13

The proposed *Angophora hispida* in the front north-eastern corner shall be deleted. The Landscape Plan is to be amended accordingly prior to issue of the Construction Certificate.

Reason: To be consistent with view sharing principles.

The following Condition No. ANS14 (3MS01) is to be added as per Section 96(1A) Application – Part 2 – determined 7 March 2018:

ANS14 (3MS01)

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

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

GENERAL CONDITIONS

The following Condition No.1 is to be amended as per Section 96(1A) Application – Part 2 – determined 7 March 2018:

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. 261/2015:

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
DA 100 – Site Plan	Issue A dated 29/9/2015	9/11/2015
DA 102 – Ground Floor Plan	Issue A dated 29/9/2015	9/11/2015
DA 103 – Lower Ground Floor Plan	Issue A dated 29/9/2015	9/11/2015
DA 300 – North East Elevation	Issue A dated 29/9/2015	9/11/2015
DA 301 – South East Elevation	Issue A dated 29/9/2015	9/11/2015
DA 302 – South West Elevation	Issue A dated 29/9/2015	9/11/2015
DA 303 – North East Elevation	Issue A dated 29/9/2015	9/11/2015
DA 304- Section	Issue A dated 29/9/2015	9/11/2015
Landscape Plan- Cover- LP01-4115	Issue A dated Sept 2015	9/11/2015
Landscape Plan LP01-4115	Issue A dated Sept 2015	9/11/2015

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

Reference Documentation affixed with Council's stamp relating to Development Consent No. 261/2015:

- Statement of Environmental Effects prepared by Tomasy Pty Ltd dated October 2015 and received by Council on 9/11/2015.
- Terrestrial Biodiversity Report prepared by Total Earth Care dated October 2015 and received by Council on 9/11/2015.
- Report on Geotechnical Investigation prepared by JK Geotechnics dated 4 September 2015 and received by Council on 9/11/2015.
- Heritage Impact Statement prepared by Zoltan Kovacs Architect dated September 2015 and received by Council on 9/11/2015.

- Arboriculture Impact Assessment Report prepared by Martin Peacock Tree Care dated 24 September 2015 and received by Council on 9/11/2015.
- Bushfire Hazard Assessment Report prepared by Building Code & Bushfire Hazard Solutions Pty Ltd dated 12 August 2015 and received by Council on 9/11/2015.
- BASIX Certificate No667144S dated 19/10/2016 and received by Council on 9/11/2015.

General Terms of Approval from Heritage Council of NSW :

APPROVED DEVELOPMENT:

- 1 Development must be in accordance with:
 - a) Architectural drawings, prepared by Burley Katon Halliday Pty Ltd as listed below:

Dwg No	Dwg Title	Date	Rev
Project Name: New Dwelling 2 Spring Cove Avenue Manly			
DA.002	Area Diagrams	29/09/2015	A
DA.000	Cover Page	undated	A
DA.001	Finishes Schedule	29/09/2015	A
DA.002	Area Diagrams	29/09/2015	A
DA.003	Basix Commitments	29/09/2015	A
DA.100	Site Plan	29/09/2015	A
DA.101	Locality and Site Analysis Plan	29/09/2015	A
DA.102	Ground Floor Plan	29/09/2015	A
DA.103	Lower Ground Floor Plan	29/09/2015	A
DA.300	North-West Elevation	29/09/2015	A
DA.301	South-East Elevation	29/09/2015	A

DA.302	South-West Elevation	29/09/2015	A
DA.303	North-East Elevation	29/09/2015	A
DA.304	Section	29/09/2015	A
DA.601	Winter Solstice Shadow Diagrams	29/09/2015	A
DA.602	Winter Solstice Shadow Diagrams	29/09/2015	A
SK.01	Ground Floor Reflected Ceiling Plan	29/09/2015	A
SK.02	Lower Ground Reflected Ceiling Plan	29/09/2015	A

- b) Landscape drawings prepared by William Dangar Outdoor Solutions as follows:

Dwg No	Dwg Title	Date	Rev
Project Name: New dwelling 2 Spring Cove Avenue Manly			
LP01	Cover	Sept 2015	A
LP01	Landscape Plan	Sept 2015	A

- c) Hydraulic drawings prepared by ITM Design Pty Ltd as follows:

Dwg No	Dwg Title	Date	Rev
Project Name: New dwelling 2 Spring Cove Avenue Manly			
H-DA-01	Ground Floor Stormwater Drainage	9/10/15	A
H-DA-00	Lower GF Stormwater and Sed Control	9/10/15	A

- d) Survey plan prepared by Urbanex Pty Ltd as follows:

Dwg No	Dwg Title	Date	Rev
Project Name: New dwelling 2 Spring Cove Avenue Manly			
Manly-DT 10/11	Detail and Levels over Lot 10 and 11 DP 1189590	29/10/13	A

- e) Report entitled Arboriculture Impact Assessment Report Lot 11 – Spring Cove Avenue Manly NSW 2023, prepared by Martin Peacock Tree Care dated 24 September 2015;
- f) Report entitled Basix Certificate prepared by Basix Certificate Centre dated 19 October 2015.
- g) Report entitled Building Energy Efficiency Certification prepared by Peter Walker undated
- h) Report entitled Bushfire Hazard Assessment Report. Proposed New Sole Occupancy Dwelling at 2 Spring Cove Avenue Manly, prepared by Bushfire Code and Bushfire Hazard Solutions Pty Limited dated 12 August 2015.
- i) Report entitled Report to Jason and Bridget Little on Geotechnical Investigation for Proposed New House at Lot 11 Spring Cove Estate, Wood Street, Manly NSW, prepared by JK Geotechnics dated 4 September 2015.
- j) Report entitled Heritage Impact Assessment New Residence, Spring Cove, St Patrick's Estate, Manly prepared by Zoltan Kovacs Architect dated September 2015
- k) Report entitled Statement of Environmental Effects Application for the Construction of a Dwelling house, swimming pool and associated landscaping 2 Spring Cove Avenue Manly, prepared by Denis Smith, Planning and Property Consultant Tomasy Pty Ltd dated October 2015.
- l) Report entitled Terrestrial Biodiversity Report and 7 Part Test Long-nosed Bandicoot *Perameles nasuta* Endangered Population, North Head prepared by Total Earth Care Pty Ltd dated October 2015.
- m) Report entitled Archaeological Requirements Spring Cove, Manly, Townhouse Construction Lot 11 prepared by Casey and Lowe Pty Ltd dated 17 February 2016.

EXCEPT AS AMENDED by the conditions of this approval:

Helping the community conserve our heritage

2. DESIGN MODIFICATION

Port Jackson Fig that is located near the south western corner of the subject site must be retained.

3. SITE PROTECTION AND WORKS

- a) Significant vegetation shall be protected before and during the works from potential damage, protection systems must ensure significant vegetation is no damaged or removed;

4. ARCHAEOLOGY

- a) The Applicant must ensure that if substantial intact archaeological deposits and/or State significant relics not identified in 'Spring Cove S60 Application Archaeological Methodology' (8 November 2011) prepared by Casey and Lowe Pty Ltd and 'Archaeological Requirements Spring Cove, Manly Townhouse Construction, Lot 11 (17 February 2016) prepared by Casey and Lowe Pty Limited, are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.
- b) Should any Aboriginal 'objects' be uncovered by the work, excavation or disturbance of the area is to stop immediately and the Office of Environment & Heritage is to be informed in accordance with Section 89A of the National Parks and Wildlife Act, 1974 (as amended). Works affecting Aboriginal 'objects' on the site must not continue until the Office of Environment and Heritage has been informed. Aboriginal 'objects' must be managed in accordance with the National Parks and Wildlife Act, 1974.

5. SECTION 60 APPLICATION:

An application under section 60 of the Heritage Act 1977 must be submitted to and approved by the Delegate of the Heritage Council of NSW prior to work commencing."

Except as amended by:

Drawings affixed with Council's 'Development Consent' stamp relating to this Section 96(1A) Application – Part 2 – determined 7 March 2018:

Plan No. / Title	Issue/ Revision & Date	Prepared By
S96.101(B) / Site Analysis Plan	Rev. B, 11 October 2017	BKH Pty Ltd
S96.102(B) / Ground Floor Plan	Rev. B, 11 October 2017	BKH Pty Ltd
S96.103(B) / Lower Ground Floor Plan	Rev. B, 11 October 2017	BKH Pty Ltd
S96.300(B) / North-East Elevation	Rev. B, 11 October 2017	BKH Pty Ltd
S96.301(B) / South-East Elevation	Rev. B, 11 October 2017	BKH Pty Ltd
S96.302(B) / South-West Elevation	Rev. B, 11 October 2017	BKH Pty Ltd
S96.303(B) / North-West Elevation	Rev. B, 11 October 2017	BKH Pty Ltd
304(B) / Section A-A	Rev. B, 11 October 2017	BKH Pty Ltd

Reference Documentation relating to this Section 96(1A) Application – Part 2 – determined 7 March 2018:

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

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

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

1 (2AP01)

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

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

2 (2AQ01)

A report prepared by an air pollution control consultant specifying odour control and other air impurity control methods is to be submitted to the Council/Accredited Certifier for approval, prior to the issue of the Construction Certificate. All works required must be implemented prior to the use commencing.

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

3 (2CD01)

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

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

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

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

4 (2CD05)

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

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

5 (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.

6 (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 (m²)
- 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.

7 (2DS07)

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

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

Reason: To protect public health and amenity.

8 (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.

9 (2MS03)

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

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

10 (2NL02)

Any air conditioning unit on the site must be installed and operated at all times so as not to cause "Offensive Noise" as defined by the Protection of the Environment Operations Act 1997. Domestic air conditioners must not be audible in nearby dwellings between 10:00pm to 7:00am on Monday to Saturday and 10:00pm to 8:00am on Sundays and Public Holidays.

Details of the acoustic measures to be employed to achieve compliance with this condition must be prior to the issue of the Construction Certificate.

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

11 (2NL04)

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

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

- Identification of activities carried out and associated noise sources
- Identification of potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment
- Determination of appropriate noise and vibration objectives for each identified sensitive receiver
- Noise and vibration monitoring, reporting and response procedures
- Assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles
- Description of specific mitigation treatments, management methods and procedures to be implemented to control noise and vibration during construction
- Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency
- Procedures for notifying residents of construction activities likely to affect their amenity through noise and vibration
- Contingency plans to be implemented in the event of non-compliances and/or noise complaints. A register should be kept of complaints received, and the action taken to remediate the issue.

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

12 (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.

13 (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.

14 (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.

15 (2SP01)

All of the following are to be satisfied in relation to the proposed swimming pool:

1) The swimming pool is to be surrounded by a child-resistant barrier in accordance with the Swimming Pools Amendment Act 2009 and Regulations 2008 which:

- separates the swimming pool from any residential building situated on the property and from any place adjoining the property, and
- is designed, constructed, installed and maintained in accordance with the standards prescribed by the Regulations and appropriate Australian Standards.

- 2) All surface waters from non-pervious areas surrounding the swimming pool must be collected and disposed of to the stormwater system.
- 3) Windows giving access to the pool areas must be made child safe and comply with the following:
- Window opening is to be restricted by an approved means so that a round bar 105mm in diameter cannot be passed through the opening or the window is to be protected by a child safe grille.

However if the restricted opening of such windows means that they will no longer meet the natural ventilation requirements of the Building Code of Australia, then only a child safe grille is permissible.

- 4) The proposed pool gates are to be mounted so that:
- they are clear of any obstruction that could hold the gate open, and
 - when lifted upward or pulled downward, movement of the gate does not release the latching device, unhinge the gate or provide a ground clearance greater than 100mm; and
 - they open outwards from the pool.

Reason: To comply with Australian Standard AS 1926 and provide a reasonable level of child safety

16 (2SP02)

A railing or other safety measures or devices are to be erected around the sides of the pool surround structure where height above natural ground level exceeds 900mm. All details of the necessary device are to be submitted to and approved by the Council/Accredited Certifier prior to issue of the Construction Certificate.

Reason: To ensure the safety of persons using those walkways.

17 (2SP03)

The backwash of Swimming Pool water must be discharged to Sydney Waters' sewer in accordance with Australian/New Zealand Standard AS/NZS 3500.

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

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

18 (2SP04)

Any mechanical plant associated with the swimming pool and spa shall be centrally located within the site, away from the boundaries and acoustically treated so the noise from the machinery is not audible at the property boundary. Details are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To ensure the acoustic amenity of the neighbouring residents.

19 (2TS01)

The Landscape drawings, submitted in conjunction with the approved Development Application and as amended by these conditions of consent, is to include native plant species with a low dense clumping habit to provide Long-nosed Bandicoot habitat. The planting schedule must comprise species including Lomandra sp., Dianella sp. Banksia spinulosa, Westringia fruticosa, Caustis sp., Xanthorrhoea sp., Isolepis sp., Juncus sp., Adiantum sp., Calochlaena sp., Callistemon sp., Grevillea juniperina, Gleichenia sp., Grevillea 'Robyn Gordon' and tussocky native grasses (e.g. Themeda spp.). Plans are to be amended prior to the issue of the Construction Certificate.

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

20 (2TS02)

Any internal and/or boundary fencing and gates are to be designed to include 'access spaces' suitable for Long-nosed Bandicoots trying to access the property post-construction.

These 'access spaces' are to be provided at intervals of no greater than 3m apart and are to be located at the bottom of the fencing/gate, being 300mm long and at least 150mm high and are not to be obstructed. Alternatively the length of the fence is to be raised 150mm off the ground. This condition does not apply to pool fencing.

Reason: To enable access to, from and through the site to ensure the development does not result in further fragmentation of Long-nosed Bandicoot habitat.

21 (2TS03)

Long-nosed Bandicoots are to be excluded from constructed waterbody areas (e.g. pools, ponds, spas or water features), while maintaining access to the surrounding soft landscaping. Pool fencing, for example, must be constructed with a surrounding barrier 300mm in height or greater, or a base gap of less than 120mm, so as to exclude Long-nosed Bandicoots from entering the pool areas but not the garden or grassed areas. Fencing must have no gaps large enough to allow bandicoots through to the waterbody. Plans are to be amended prior to the issue of the Construction Certificate.

Reason: To prevent the waterbody from becoming a drowning hazard for Long-nosed Bandicoots.

22 (2TS04)

External retaining walls or stairs must be a maximum of 200mm in height (or lower in accordance with BCA standards). Where this cannot be avoided a slope or ramp is to be provided/constructed in association with the stairs/retaining walls to permit Long-nosed Bandicoot access.

Reason: Stairs/retaining walls of greater height present an access barrier preventing Long-nosed Bandicoots from accessing other Bandicoot habitat on or adjacent to the site. This measure will ensure no further fragmentation of remaining Long-nosed Bandicoot habitat on the site.

23 (2TS05)

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

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

24 (2TS06)

Where concealing material is required for any undercroft areas (e.g. under the house, stairs or balcony, gaps are to be established to allow Long-nosed Bandicoot access (i.e. gaps 150mm high by 300mm long, spaced at the base of the concealing material at least every 2-3 metres).

Reason: To ensure the development does not reduce Long-nosed Bandicoot access to habitat on site.

25 (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

26 (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.

27 (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.

28 (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.

29 (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.

30 (3TS01)

Temporary chain wire fencing is to be installed around all work areas (including demolition, storage and construction areas) prior to the commencement of works. Fencing is to be maintained for the duration of the works. The fencing is to be designed to minimise the possibility of Long-nosed Bandicoots accessing the works areas and sheltering in cavities or voids. A surrounding barrier of minimum 300mm in height is considered sufficient.

Reason: To prevent direct impacts to Long-nosed Bandicoot individuals which may access the construction site and attempt to shelter in/under cavities, stockpiles or machinery.

31 (3TS04)

All workers, including site inspectors and sub-contractors, are to be made aware of the potential presence of threat-listed species, populations or ecological communities through the site induction, prior to commencement of works. The site induction is to include information about the conservation significance of these species, populations, or communities, means of identification and the measures to be implemented for their protection.

A confirmation of induction is to be signed by every worker and the site foreman/supervisor. Evidence of the site induction is to be documented and provided to the Principle Certifying Authority.

Reason: To avoid accidental harm to threat-listed species, populations or ecological communities, it is important that workers on the site are aware of their presence, their conservation significance and the measures in place to protect them.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

32 (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.

33 (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.

34 (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.

35 (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.

36 (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.

37 (4CD10)

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

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

38 (4CD11)

The activity of rock-breaking associated with the development of the site, must only occur between the hours of:

- 9.00 AM – 5.00 PM on weekdays (Monday – Friday) only.

Rock-breaking activities must not occur on weekends or public holidays.

Adjoining properties must be notified in writing of the times and days in which rock-breaking activities will be carried out. Notices must be distributed at least seven (7) days before the activity is to occur.

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

39 (4DS01)

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

Reason: To prevent uncontrolled seepage entering excavated areas.

40 (4DS02)

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

- 1) Ground water or other water to be pumped from the site into Council's stormwater system must be sampled and analysed by a NATA accredited laboratory or Manly Council for compliance with ANZECC Water Quality Guidelines, and

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

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

41 (4DS03)

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

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

Reason: To protect public health and amenity.

42 (4MS02)

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

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

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

Reason: To ensure compliance with the development consent.

43 (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.

44 (4NL01)

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

Reason: To prevent disturbance to the surrounding community during construction.

45 (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.

46 (4TS01)

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

Reason: Noise and vibration may disturb local native fauna (including species and populations listed as threatened under State or Federal legislation) and discourage their use of adjoining areas.

47 (4TS02)

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

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

48 (4TS03)

An inspection register log-book must be kept on site recording daily inspections of all holes (created for footings, installations etc.), machinery and construction material stockpiles, checking for Long-nosed Bandicoots. These inspections are to be undertaken each work day prior to commencement of works and works may only proceed once the Bandicoot has safely vacated the work site.

If a Long-nosed Bandicoot is found within the work area, no work shall proceed until the Bandicoot has safely vacated the area. The log-book is to be made available to Principal Certifying Authority.

Reason: To ensure no Long-nosed Bandicoots are injured or killed during construction/demolition.

49 (4TS07)

If an uninjured Long-nosed Bandicoot enters the worksite or is found during a survey of holes/stockpiles, works must cease until the Bandicoot has safely vacated the worksite. Any injured or dead Long-nosed Bandicoots found within the worksite must be reported to the National Parks & Wildlife Service (NPWS) or Manly Council. For assistance to relocate a Bandicoot from the worksite, or to report a dead or injured Bandicoot, please contact:

- National Parks & Wildlife Service – Duty Officer (9457 9577); or
- Manly Council – Natural Resources Branch (9976 1500).

Reason: To ensure that any Long-nosed Bandicoots utilising the worksite are safely relocated by an appropriately trained officer, and that injured Bandicoots receive expert care so that they can be returned to endangered population where possible. It is also important that any dead individuals are reported so that causes of mortality can be identified and addressed.

50 (4WM01)

The only waste derived material which may be received at the development site is:

- 1) Virgin excavated material (within the meaning of the Protection of the Environment Operations Act 1997), and
- 2) Any other waste-derived material the subject of a resource recovery exemption under cl.51A of the Protection of the Environment Operations (Waste) Regulation 2005 that is permitted to be used as fill material.

Any (b)-type material received at the development site must be accompanied by documentation certifying the materials compliance with the exemption conditions; and this documentation must be provided to the Principal Certifying Authority on request.

Reason: To ensure imported fill is of an acceptable standard for environmental protection purposes.

51 (4WM02)

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

Reason: To ensure compliance with legislation.

52 (4WM03)

Hazardous waste must be contained, managed and disposed of in a responsible manner in accordance with the Protection of Environment and Operations Act 1997.

Reason: Compliance with the provisions of the Protection of the Environment and Operations Act 1997.

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

53 (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.

54 (5NL01)

An Acoustic Compliance Report, prepared by a qualified and experienced acoustical consultant, must be submitted certifying noise levels emitted from the (building's/premises) (services, equipment, machinery and ancillary fittings) does not exceed 5dBA above the background level in any octave band from 63.0 Hz centre frequencies, inclusive at the boundary of the site.

Note: This method of measurement of sound must be carried out in accordance with Australian Standard AS 1055.1-1997.

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

55 (5SP01)

All protective fencing and gates are to be in accordance with Australian Standard AS 1926 prior to the pool being filled with water. The fence is to be a minimum of 1200mm in height and posts and/or supports are to be firmly fixed or encased in such a way that the posts/support are unable to be removed easily.

The fence is not to be removed or altered at any time without the prior approval of Council. No water can be in the swimming pool until the required protective fencing has been inspected and approved by Council.

Reason: To comply with Australian Standard AS1926 and provide a reasonable level of child safety.

56 (5TC01)

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

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

ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OR DEVELOPMENT

57 (6AP02)

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

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

58 (6DS01)

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

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

Reason: To protect public health and amenity.

59 (6LP03)

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

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

60 (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.

61 (6NL03)

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

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

62 (6NL06)

Any air conditioning unit on the site must be installed and operated at all times so as not to cause 'offensive noise' as defined by the Protection of the Environment Operations Act 1997. Domestic air-conditioners must not be audible in nearby dwellings between 10:00PM to 7:00AM Monday to Friday, and 10:00PM to 8:00AM on Saturdays, Sundays and public holidays.

Reason: To ensure compliance with legislation and to protect the acoustic amenity of neighbouring properties.

63 (6NL07)

Noise associated with any entertainment within the premises including but not limited to live music, amplified music, background acoustic music, recording, comedy, dance, artistic expression or otherwise must not be audible within any residential habitable room at any time.

Reason: To minimise noise disturbance to neighbouring residential properties.

64 (6NL12)

Swimming pool and spa pumps must be installed and operated at times so as not to cause 'offensive noise' as defined by the Protection of the Environments Operation Act 1997. Swimming pool and spa pumps must not be audible in nearby dwelling between 8:00PM to 7:00AM Monday to Friday, and 8:00PM to 8:00AM on Saturdays, Sundays and public holidays.

Reason: To ensure compliance with legislation and to protect the acoustic amenity of neighbouring properties.

65 (6PT03)

Loading and unloading of vehicles and delivery of goods to the land must be carried out within the site. The car parking area shown on the approved drawings must be used for vehicle parking only. Any loading or unloading of materials of potential environmental damage must be appropriately bunded with adequate spill response equipment in place to ensure nil runoff from the site.

Reason: To ensure the safety and amenity of the general public using public streets, and to ensure the protection of the environment from spillage of materials.

66 (6TS01)

All 'access spaces', fencing and landscaping requirements outlined in these conditions of consent are to be maintained post-construction.

Reason: To ensure that 'access spaces' are not covered up or landscaping elements changed, restricting Bandicoot movement to habitable areas.

67 (6WM10)

The operation of the premises must be conducted in a manner that does not pollute waters as defined by the Protection of the Environment Operations Act, 1997.

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