

DEVELOPMENT APPLICATION ASSESSMENT REPORT

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| Application Number: | DA2018/1530 |
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| Responsible Officer: | Benjamin Price |
| Land to be developed (Address): | Lot 7 DP 3408, 13 Laurence Street MANLY NSW 2095 |
| Proposed Development: | Demolition works and construction of a dwelling house including swimming pool |
| Zoning: | Manly LEP2013 - Land zoned R1 General Residential |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Delegation Level: | NBLPP |
| Land and Environment Court Action: | No |
| Owner: | Andrew Thomas Scott Susan Jane Scott |
| Applicant: | Andrew Thomas Scott Susan Jane Scott |

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| Application lodged: | 14/09/2018 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Residential - Single new detached dwelling |
| Notified: | 19/09/2018 to 05/10/2018 |
| Advertised: | Not Advertised |
| Submissions Received: | 12 |
| Recommendation: | Approval |

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| Estimated Cost of Works: | \$ 2,821,500.00 |
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ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant

- Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Development Control Plan - 3.1 Streetscapes and Townscapes

Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing

Manly Development Control Plan - 3.4.2 Privacy and Security

Manly Development Control Plan - 3.4.3 Maintenance of Views

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

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

Manly Development Control Plan - 4.1.5 Open Space and Landscaping

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

SITE DESCRIPTION

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|-----------------------------------|---|
| Property Description: | Lot 7 DP 3408 , 13 Laurence Street MANLY NSW 2095 |
| Detailed Site Description: | <p>The subject site consists of one (1) allotment located on the western side of Laurence Street Manly.</p> <p>The site is regular in shape with a frontage of 15.24m along Laurence Street and a depth of 29.8m. The site has a surveyed area of 575.4m².</p> <p>The site is located within the R1 General Residential zone and accommodates a single storey dwelling house.</p> <p>The site slopes from west to east and includes a crossfall of 6m.</p> <p>The site contains one large tree at the rear and rock outcrops.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by residential accommodation and includes a seven storey residential flat building to the north, two storey dwelling house to the south and two, two storey dwelling houses to the west.</p> |

Map:



SITE HISTORY

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

DA2018/0728 - Demolition works and construction of a dwelling house - This application included a 3m setback. The application was withdrawn after Council advised that the front setback could not be supported.

PLM46/2017 - Demolition works and construction of a dwelling house - The minutes raised the following key issues:

- Driveway to be setback 900mm from side boundary
- Setback from front boundary 4.5m
- Spa to be setback a minimum of 1m from side boundary

The minutes also advised view loss be investigated.

DA61/1995 - Two Dwellings with Basement Parking on a single allotment

Comments

The current application incorporates a 900mm side setback to the driveway and 2m side setback to the spa. The building is setback 4.5m from the front boundary with a 4.15m wide uncovered balcony on the first floor and terrace on the ground floor setback 3m from the front boundary. The current application is generally consistent with the pre-lodgement advice and will achieve the intention of the advice provided.

PROPOSED DEVELOPMENT IN DETAIL

The proposal includes the demolition of the existing buildings on the site and the construction of a two storey dwelling house with lift access to all levels, basement carparking swimming pool and cabana.

The dwelling house will include the following:

Basement

- Three parking spaces with turntable, storage and services.

Ground Floor

- Two bedrooms with ensuites, rumpus room, kitchenette patio with spa

First Floor

- Living, kitchen, eastern facing terrace, master bedroom with walk in robe and ensuite, bedroom, study and laundry.
- Footbridge to swimming pool and cabana.

Site

- Landscaping

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

| Section 4.15 Matters for Consideration' | Comments |
|---|--|
| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument | See discussion on "Environmental Planning Instruments" in this report. |
| Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument | None applicable. |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan | Mainly Development Control Plan applies to this proposal. |
| Section 4.15 (1) (a)(iia) – Provisions of any planning agreement | None applicable. |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000) | <p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council</p> |

| Section 4.15 Matters for Consideration' | Comments |
|--|--|
| | <p>requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p> |
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the ManlyDevelopment Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p> |
| Section 4.15 (1) (c) – the suitability of the site for the development | The site is considered suitable for the proposed development. |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | See discussion on “Notification & Submissions Received” in this report. |
| Section 4.15 (1) (e) – the public interest | No matters have arisen in this assessment that would |

| Section 4.15 Matters for Consideration' | Comments |
|---|--|
| | justify the refusal of the application in the public interest. |

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

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

| Name: | Address: |
|---|--|
| Mr Graeme Leslie Henson | 25 Margaret Street FAIRLIGHT NSW 2094 |
| Mr John Macphail Ward Mrs Olive Kay Ward | 18 Margaret Street FAIRLIGHT NSW 2094 |
| Mrs Sandra Marie-Helene Julienne Cha Sieb | 14 Margaret Street FAIRLIGHT NSW 2094 |
| Ms Fiona Jane Alvarez | 16 / 15 Laurence Street MANLY NSW 2095 |
| Mr Christopher John Milne | 15 Laurence Street MANLY NSW 2095 |
| Mr David Peter Leslie | 5R Thurloo Road DUBBO NSW 2830 |
| Mr Craig Malcolm Smith Mrs Jillian Fay Smith | 16 Margaret Street FAIRLIGHT NSW 2094 |
| Miss Elizabeth Mangalsingh | 2 / 9 Laurence Street MANLY NSW 2095 |
| Mr Paul Francis Holland | 6 / 15 Laurence Street MANLY NSW 2095 |
| Mrs Dawne Hintze (Estate of the Late) | 2 / 11 Laurence Street MANLY NSW 2095 |
| Mr James Valentine Lawler | 3 / 15 Laurence Street MANLY NSW 2095 |
| Mr Paul Edmund Griffiths | 1 / 15 Laurence Street MANLY NSW 2095 |

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

- View Loss and impact on structures on roof
- Excavation and Limitations of Geotechnical Report
- Over-development
- Three Storeys
- Setbacks non-compliances
- Sunlight Impacts
- Overflow of Spa and Swimming Pool
- Roof design to minimise glare

The matters raised within the submissions are addressed as follows:

- View Loss

Comment:

Concern was raised over the loss of views from 15 Laurence Street Manly. Height poles were erected for the Dwelling and the cabana. The views from the ground floor of 15 Laurence Street were photographed and assessed below in accordance with the objectives of Clause 3.4.3 Maintenance of Views of the Manly DCP 2013 and the Views Planning Principle established by the NSW Land and Environment Court. In summary the proposal was found to maintain adequate view sharing to the ground floor of 15 Laurence Street and therefore to the floors above, subject to conditions. The recommended condition requires the plantings in the rear yard to be replaced with species of a height no greater than 1.8m. This height is the height of a standard boundary fence and is consistent with what could reasonably be expected within a residential area. There are no structures proposed on the roof as such Council cannot assess their impact or condition them. Any further applications for such structures will be assessed accordingly.

- Excavation and Limitation of Geotechnical Report

Comment:

The submitted geotechnical report is consistent with the requirements of the Manly DCP 2013. The report includes recommendations to ensure the development does not result in any unreasonable impacts within the locality. A condition is recommended to require a dilapidation survey of the neighbouring properties be undertaken prior to the issue of the construction certificate. This will ensure adequate information is available if impacts arise. This will be a civil matter which Council does not have any involvement in. The excavation has been assessed with regard to the objectives of clause 4.4.5 Earthworks (Excavation and Filling) and were found to be satisfactory. Any issue with non-compliance of noise impacts should be raised with the Principal Certifying Authority or Councils Building Control Department.

- Over-development

Comment:

The development standards set out in Clause 4.3 Height of Buildings and 4.4 Floor Space Ratio of the Manly LEP 2013 are the primary controls that seek to ensure reasonable development on site. The proposal is compliant with both controls. The development is not considered to be an over-development of the site

- Three Storeys

Comment:

The Manly DCP 2013 provides an exception to the number of storeys control for basements. The proposed basement is consistent with the definition of basement. This has been assessed below under Clause 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height) and found to be satisfactory. As such this does not set a precedent within the area.

- Setbacks non-compliances

Comment

The setback non-compliance's have been assessed below under Clause 4.1.4 Setbacks (front, side and rear) and Building Separation of the Manly DCP 2013. In summary the development was found to be satisfactory.

- Sunlight Impacts

Comment:

The proposal has been assessed below with regard to Clause 3.4.1 Sunlight Access and Overshadowing of the Manly DCP 2013. In summary, the development will not result in any unreasonable overshadowing impacts within the locality.

- Overflow of Spa and Swimming Pool

Comment:

Councils standard conditions relating to spas and swimming pools require overflow to be disposed of correctly. Subject to compliance with the conditions of consent the proposal will not result in overflow onto neighbouring properties.

- Roof Design to Minimise Glare

Comment:

A suitable condition has been recommended to minimise roof glare.

MEDIATION

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

REFERRALS

| Internal Referral Body | Comments |
|--------------------------------|--|
| Landscape Officer | <p>The landscape component of the proposal is acceptable.</p> <p>Council's Landscape section have assessed the application against the landscape controls of Manly DCP2013, section 3: General Principles of Development, and section 4: Development Controls and Development Types.</p> |
| NECC (Development Engineering) | <p>2nd referral</p> <p>The below issues have been addressed in the conditions of consent. The applicant must be advised that the proposed development may need to be amended due to these conditions. If so, a modification of the application may be lodged.</p> <p>1st</p> <p>Development Engineering has assessed the application. However, some concerns have been raised which are shown in below:</p> <p>1 Seepage</p> <p>The submitted stormwater plan indicated that a subsoil line has proposed to collect the seepage and discharge into a pump pit in the basement.</p> <p>It is discharged into kerb & gutter outlet at Laurence Street.</p> <p>However, Council does not permit the seepage to be discharged into</p> |

| Internal Referral Body | Comments |
|------------------------|---|
| | <p>the kerb on street directly. The sub-soil drainage shall be discharged directly into Council's nearest stormwater underground drainage structure.</p> <p>2 Flood protection The basement carpark must be provided with a crest at a part of the driveway in order to prevent any potential flood in the basement. The crest level is to be set by a overland flow in Laurence Street for the 1 in 100 year ARI storm event in this regard a overland flow study shall be provided for Council assessment</p> <p>In this regard the overland flow study is to include, but not be limited to the following information:</p> <ul style="list-style-type: none"> • Hydrological data • Hydraulics data • Catchment plan showing sub-catchments (where applicable) • Computer model (applicant is liaise with Council's Stormwater and Development Engineering Team with regards to type of computer modelling required, i.e, 1 Dimensional or 2 Dimensional • Top water surface level at the receiving water on the drainage layout plan (applicant is to verify/confirm the above level with Council's Stormwater and Development Engineering Team prior to undertaking the above study) • Cross sections detailing the 1 in 100 year ARI water surface levels traversing the site • Extent of water surface levels to extend upstream and downstream of the subject property • Above details are to be provided for both existing and post-developed conditions • Engineer's certification that the development will not exacerbate overland flow regime for subject property and surrounding properties <p>3 Driveway In accordance with clause 3.3 of Australian Standard 2890.1.2004 parking facilities - part 1: off- street car parking (AS/NS 2890.1.2004), at least 6 m long with max 5 % gradient between the edge of the frontage road and the property line shall be provided. As above, the driveway design shall be amended.</p> |

| Internal Referral Body | Comments |
|------------------------|---|
| | <p>The long sections of the proposed driveway at the both sides of the driveway shall be provided for assessment.</p> <p>4 Stormwater outlet The proposed stormwater outlet at Laurence Street may has an negative impact on the street tree. Please refer to the Landscape Section to assess the impact of the tree.</p> <p>As the above, Development Engineering cannot support the development due to lack of the information.</p> |

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPis)*

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

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

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

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 906928S_03 dated 13 September 2018).

Manly Local Environmental Plan 2013

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

Principal Development Standards

| Standard | Requirement | Proposed | % Variation | Complies |
|----------------------|------------------------|-------------------------|-------------|----------|
| Height of Buildings: | 8.5m | 6.77m | N/A | Yes |
| Floor Space Ratio | FSR: 0.6:1 (345.24sqm) | FSR: 0.477:1 (274.7sqm) | N/A | Yes |

Compliance Assessment

| Clause | Compliance with Requirements |
|---|------------------------------|
| 2.7 Demolition requires development consent | Yes |
| 4.3 Height of buildings | Yes |
| 4.4 Floor space ratio | Yes |
| 6.1 Acid sulfate soils | Yes |
| 6.2 Earthworks | Yes |
| 6.4 Stormwater management | Yes |
| 6.9 Foreshore scenic protection area | Yes |
| 6.12 Essential services | Yes |

Manly Development Control Plan

Built Form Controls

| Built Form Controls - Site Area: 575.4sqm | Requirement | Proposed | % Variation* | Complies |
|--|--|---|---------------|----------|
| 4.1.1.1 Residential Density and Dwelling Size | Density: 1 dwelling/250sqm | 1 dwelling/575.4sqm | N/A | Yes |
| 4.1.2.1 Wall Height | North: 6.5m | 5.56m-5.86m | N/A | Yes |
| | South: 6.5m | 5.64m - 7.16m | 16.9% | No |
| 4.1.2.2 Number of Storeys | 2 | 2 | N/A | Yes |
| 4.1.2.3 Roof Height | Height: 2.5m | 0.4m | N/A | Yes |
| 4.1.4.1 Street Front Setbacks | Prevailing building line 5.25m 11 Laurence Street 4.5 15 Laurence Street 6m | Building: 4.5m Balcony: 3m | 14.3% - 42.8% | No |
| 4.1.4.2 Side Setbacks and Secondary Street Frontages | North Dwelling 1.85m-1.95m Cabana 1m South Dwelling 1.86m - 2.17m | North Dwelling Ground Floor: 2.1m First Floor: 1.8m Cabana 1.4m-3.7m South Dwelling 1.84m-3.76m | 1%-7.6% | Yes |
| | Windows: 3m | 1.8m | 40% | No |
| 4.1.4.4 Rear Setbacks | 8m | Dwelling 11.5m | 36% | No |

| | | | | |
|---|---|--|--------|-----|
| | | Cabana 5.1m | | |
| 4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3 | Open space 55% of site area (316.5sqm) | 58% (333.9sqm) | N/A | Yes |
| | Open space above ground 25% of total open space (83.5sqm) | 11.5% (38.3sqm) | | |
| 4.1.5.2 Landscaped Area | Landscaped area 35% of open space (116.9sqm) | 42.5%(142sqm) | N/A | Yes |
| | 3 native trees | 4 trees (nil subject to conditions- see comments) | 100% | No |
| 4.1.5.3 Private Open Space | 18sqm per dwelling | 24.8sqm | N/A | Yes |
| 4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas | Maximum 50% of frontage up to maximum 6.2m | N/A Basement | N/A | Yes |
| 4.1.9 Swimming Pools, Spas and Water Features | 1m height above ground | Swimming Pool - Nil Spa - Nil | N/A | Yes |
| | 1m curtilage/1.5m water side/rear setback | Swimming Pool Waters edge - 1.5m Curtilage - 1m Spa Waters edge - 2m Curtilage - 1m | N/A | Yes |
| 4.1.10 Fencing | 1m up to 1.5m where 30% transparent above 1m | Pedestrian Entry: 1.6m Fence: 0.9m-1.3m Solid | 0%-60% | No |
| 4.4.5 Earthworks (Excavation and Filling) | Generally 1m | Swimming pool/Cabana 2.8m | 100% | No |
| Schedule 3 Parking and Access | Dwelling 2 spaces | 2 spaces | N/A | Yes |

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

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| 3.1 Streetscapes and Townscapes | No | Yes |
| 3.1.1 Streetscape (Residential areas) | No | Yes |
| 3.3 Landscaping | Yes | Yes |
| 3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise) | Yes | Yes |
| 3.4.1 Sunlight Access and Overshadowing | Yes | Yes |

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| 3.4.2 Privacy and Security | Yes | Yes |
| 3.4.3 Maintenance of Views | Yes | Yes |
| 3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design) | Yes | Yes |
| 3.6 Accessibility | Yes | Yes |
| 3.7 Stormwater Management | Yes | Yes |
| 3.8 Waste Management | Yes | Yes |
| 3.9 Mechanical Plant Equipment | Yes | Yes |
| 3.10 Safety and Security | Yes | Yes |
| 4.1 Residential Development Controls | Yes | Yes |
| 4.1.1 Dwelling Density, Dwelling Size and Subdivision | Yes | Yes |
| 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height) | No | Yes |
| 4.1.4 Setbacks (front, side and rear) and Building Separation | No | Yes |
| 4.1.5 Open Space and Landscaping | No | Yes |
| 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities) | Yes | Yes |
| 4.1.8 Development on Sloping Sites | Yes | Yes |
| 4.1.9 Swimming Pools, Spas and Water Features | Yes | Yes |
| 4.1.10 Fencing | No | Yes |
| 4.4.5 Earthworks (Excavation and Filling) | No | Yes |
| 5.4.1 Foreshore Scenic Protection Area | Yes | Yes |

Detailed Assessment

3.1 Streetscapes and Townscapes

Description of non-compliance

The Manly DCP 2013 permits fences to a maximum height of 1m where they are solid. The proposal includes a fence height of 0.9m - 1.3m solid and the pedestrian entry is 1.6m with no transparency identified.

Merit consideration:

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

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

Comment:

The proposed fence steps with the slope of the site. The pedestrian entry is also setback from the street front boundary. The proposal is of a modest design and will not result in any unreasonable impacts within the locality.

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

Comment:

The proposed fence is consistent with fences of the nearby properties. The proposed fence will not result in any unreasonable impacts on the streetscape of the locality.

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

Comment:

The proposal is consistent with the nearby and surrounding development. The proposal is satisfactory in this circumstance.

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

3.4.1 Sunlight Access and Overshadowing

Merit consideration:

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

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

Comment:

The proposed development will result in additional overshadowing of the private open spaces and windows to habitable rooms during the morning of the winter solstice and additional overshadowing of windows to habitable rooms during the afternoon of the winter solstice. The development site and the neighbouring properties to the south are significantly overshadowed by the existing seven storey residential flat building to the north.

The proposed development includes a 3.8m setback for the majority of the southern side. Towards the rear of the proposed dwelling on the southern side the building steps out towards the southern boundary with a minimum setback of 1.84m for a length of 6m. It is noted that the element is non-compliant by 0.02m. It is also noted that the building minimises its height to 6.77m above ground level in an area where 8.5m is permitted.

The building to the south is predominantly orientated to the east and the west. This building will retain solar access to the windows and open space to the east during the morning of the winter solstice. The western elevation and the private open spaces to the west will receive good solar access during the afternoon of the winter solstice. The western private open spaces will also receive improved solar access due to the proposed removal of the existing outbuilding. The development will not result in any additional shadowing of the property to the south during midday of the winter solstice as it is already overshadowed by the residential flat building at 15 Laurence Street.

The proposal maximises the setbacks on the southern side to ensure it maintains an equitable access to light and sunshine within the locality. The non-compliance is for a small portion of the southern side and compliance would not result in any significant increase to solar access. The proposed development is of a reasonable design and will ensure that an equitable access to light and sunshine is maintained within the locality.

Objective 2) To allow adequate sunlight to penetrate:

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

Comment:

As discussed above, the development will ensure that 11 Laurence Street maintains adequate sunlight to penetrate the eastern and western facing windows and private open spaces.

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

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

Comment:

The proposed development maximises the southern side setbacks to allow for the penetration of mid-winter sunlight to windows living rooms and principal outdoor areas.

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

3.4.2 Privacy and Security

Merit consideration:

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

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

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

Comment:

The proposal incorporates screening and articulation to minimise building bulk and enhance privacy to the neighbouring properties.

The northern elevation has been designed to provide privacy to the development site. The elevation incorporates highlight windows screening and frosted glass to ensure no overlooking of the property to the north. The first floor northern elevation includes one window that is not screened or frosted. This window is to the study and is setback 2.4m from the boundary. This window will not result in any unreasonable privacy impacts.

The southern elevation incorporates a 3.8m setback to the boundary with the exception of the rear 6m portion that is setback 1.84m. This portion includes a blank wall and a screened 1.2m wide balcony attached to a bedroom. This will not result in any unreasonable privacy impacts. The windows 23 and 22 are to an ensuite and bedroom, respectively. These are typically lower use rooms. As a result these windows will not result in any unreasonable impacts on the privacy of the property to the south. The first floor incorporates a terrace and the ground floor a rumpus room that face the southern side boundary. These elements are screened with louvred screens to minimise any overlooking. This in conjunction with the setback will ensure no significant privacy impacts. These elements are also adjacent to the carport/front entrance to the neighbouring dwelling. As such the proposal will not result in any overlooking of private open spaces.

The proposed pool and cabana area is at/below existing ground level and is designed to focus any entertainment to the centre of the site. The proposed cabana will provide privacy to the site by screening the pool area from the residential flat building to the north. The properties to the west are significantly higher than the proposed development. As such, there will be no significant privacy impacts from the pool and cabana area on these properties. The spa is setback 2m from the southern side boundary and incorporates a 1.8m timber and colorbond screen on the southern side. It is noted that this is not detailed on the elevations as such a condition is recommended to require screening in the location proposed on the floor plans.

The proposed development is suitably designed to minimise the loss of privacy to adjacent and nearby development.

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

Comment:

The proposed development will ensure the privacy of the neighbouring properties while allowing the dwelling access to light and air through the use of louvred screens. The proposal will achieve a balanced outlook from habitable rooms and private open spaces.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The development will encourage passive surveillance of the street and encourage an awareness of neighbourhood security.

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

3.4.3 Maintenance of Views

Merit consideration:

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

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

Comment:

The proposed development has been assessed below with regard to the views planning principle established by the NSW Land and Environment Court. The assessment has found that the view sharing is reasonable.

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

To assist in the assessment of the view loss height poles were requested to be erected for the previous application (DA2018/0728). As discussed under site history DA2018/0728 was for a proposal similar to this development. This application was withdrawn from Council after the applicant was advised that Council could not support the 3m front setback. The maximum height of this building was 36, which is consistent with the current proposal. The current application proposes a building setback of 4.5m. Given the current proposal is the same roof form as previously proposed it is considered that the increased front setback will not impact the accuracy of the height poles. As such no further height poles were requested. The south-western, north-western and north-eastern height poles were surveyed at a height of 35.92. These poles were placed on the corners of the building with the maximum RL being 36 being the highest point to allow for adequate fall. The south-eastern height pole was surveyed at a height of 35.6. This pole shows the step down in the roof that is proposed for the first floor terrace on the southern side. Height poles were also put in place for the cabana in the rear yard.

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

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

Comment:

The views affected are as follows:

Unit 3 15 Laurence Street

This unit gains standing and sitting views of Sydney Harbour and South Head. In a sitting position views will be lost of the water and South Head. In a standing position some water view will be lost.

Unit 2 15 Laurence Street

This unit gains views of the Sydney Harbour, North Head and South Head. In a sitting position views

will be lost of the water, North Head and South Head. In a standing position some water views will be lost.

Unit 1 15 Laurence Street

This unit gains water views looking across the rear yard of 13 Laurence Street. The views lost due to the cabana are obscured water views obtained from a sitting position from the lounge room overlooking the side boundary. The primary water view will be retained. The submission from the owners of this property raised concern that the proposed landscaping in the rear yard would result in the disruption of these views. Upon review of the landscape plan it is evident that the vegetation is likely to result in the obliteration of this view.

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

Comment:

Unit 3 15 Laurence Street

This unit gains views from the bedroom, terrace and lounge/living room overlooking the southern side boundary. The views are obtained from both a standing and a sitting position. The following picture is of the standing and sitting view from the lounge/living room of this unit.





View lost from lounge room of Unit 3 15 Laurence Street - Sitting(left) Standing (right)

Unit 2 15 Laurence Street

This unit gains views from the bedroom, terrace and lounge/living room overlooking the southern side boundary. The views are obtained from both a standing and a sitting position. The following picture is of the standing and sitting view from the lounge/living room of this unit.

View loss from Unit 2 15 Laurence Street - Sitting (left), Standing (right)

Unit 3 15 Laurence Street

This unit gains views from the terrace and lounge/living room overlooking the southern side boundary. The views are obtained from both a standing and a sitting position. The following picture is of the standing and sitting view from the lounge/living room of this unit.





View loss from Unit 1/15 Laurence Street - Sitting (left), Standing (right)

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

Comment:

Unit 3, 15 Laurence Street

This property will retain views of the land and water interface as well as iconic views of south head from a standing position from the lounge/living areas, bedroom and balcony. It is noted that the view from the balcony is highly obscured from the surrounding development. The majority of these views will be lost from a sitting position. This unit will also gain views from the lounge/living room and the terrace as the proposal is lower than the existing pitched roof on the site. The view impact is best described as moderate.

Unit 2 15 Laurence Street

This property will retain views of the land and water interface as well as iconic views of North Head and South Head from a standing position from the lounge/living areas, balcony and eastern most bedroom. However, the majority of these views will be lost from a sitting position. As above this unit will also gain water views and views of North Head from a standing position as the proposed roof is lower than the existing pitched roof on the site. The view impact is best described as moderate.

Unit 1 15 Laurence Street

The proposed cabana will ensure the retention of views from a standing position of the land and water interface from the lounge/living areas and balcony. This view impact is best described as negligible. The proposed landscaping if allowed to reach maturity will result in the obliteration of all views gained from the property. This view impact is best described as devastating.

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

Comment:

Unit 2 and 3 15 Laurence Street

The development is non-compliant with the northern side setback by 7.6% and the front setback by up to 43%. The proposal is compliant with the wall height control on the northern side (adjoining the affected property) and has a maximum building height of 6.77m which is 1.73m below the maximum height permitted by Clause 4.3 Height of Buildings of the MLEP 2013. The non-compliance's do not directly result in the loss of views. The views lost are sitting views gained from overlooking the side boundary. As noted in the first step '*The expectation to retain side views and sitting views is often unrealistic*'. The units 2 and 3 will retain both water views and iconic views from a standing position. Due to the views retained and the reasonableness of the proposal the development is considered to maintain adequate view sharing within the locality.

Unit 1 15 Laurence Street

The proposed cabana is non-compliant with the rear setback control of the Manly DCP 2013. The cabana will have a negligible impact on views. As such the proposal will maintain adequate view sharing within the locality. The proposed landscaping will obliterate the view gained from this property. A condition is recommended to require the landscape plan to be amended to include species of a maximum mature height of 1.8m within the rear yard. 1.8m is the standard boundary fence height within a residential area and is a height that can be reasonably expected within the locality. This condition is considered to retain appropriate view sharing within the locality.

15 Laurence Street

The units discussed above form the ground floor of 15 Laurence Street. The assessment found that the development would not result in any unreasonable view loss to these units. As such it is considered that development would also not result in any unreasonable view impacts on the units on the floors above.

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

Comment:

As discussed above, the proposed development will minimise the loss of views including accumulated view creep. The development is reasonable in the context and is in accordance with the provisions of this plan.

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

proposal is supported, in this particular circumstance.

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

Description of non-compliance

The proposed southern side wall is not compliant with the wall height control of the Manly DCP 2013. In particular eastern most part of the wall is non-compliant. It is noted that the ground level provided on the plans is the ground level on the boundary. The site slopes towards this boundary and the proposal at the area of non-compliance is setback 3.8m from the boundary. As such, the true non-compliance is lesser than what is shown on the submitted plans. The proposal includes three storeys. The Manly DCP 2013 allows for three storeys where the additional understorey satisfies the definition of basements in the Manly LEP 2013. The basement satisfies this definition and

Merit consideration:

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

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

Comment:

As discussed above the non-compliance is lesser than what is demonstrated on the plans. The street front elevation shows the southern most corner of the development to have a wall height of 6.33m. On the south-eastern side of the proposed development is a first floor terrace. This terrace incorporates a lower roof height than the primary roof. As such, this will give the impression of the development stepping with topographic landscape. The proposal is compliant with the maximum permitted building by Clause 4.3 Height of Buildings of the Manly LEP 2013. Furthermore the non-compliance will not result in any unreasonable impacts on the streetscape of the locality. The proposal is consistent with this objective.

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

Comment:

The proposed development is of a building form that minimises its overall height and bulk. The proposal will not result in an unreasonable bulk or scale within the locality.

(c) to minimise disruption to the following:

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

Comment:

The proposal has been assessed above under clause 3.4.3 Maintenance of Views of the Manly DCP 2013 and was found to maintain adequate view sharing within the locality.

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

Comment:

The proposal incorporates good southern side setbacks to allow for solar access to the property to the south. The proposal has been assessed above with regard to the objectives of clause 3.4.1 Sunlight Access and Overshadowing. The assessment found the proposal to maintain equitable sunlight access within the locality.

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

Comment:

Not applicable.

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

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

Description of non-compliance

The Manly DCP 2013 requires buildings to be setback from the front boundary 6m or consistent with the prevailing building line. The average setback of the two neighbouring buildings is 5.25m. The proposal incorporates a 4.5m setback to the building and a 3m setback to the first floor unenclosed balcony.

The northern side first floor is setback 1.8m from the boundary. The Manly DCP 2013 requires this element to be setback 1.85m-1.95m.

The southern side bedroom and balcony are stepped out towards the boundary for 6m of this elevation. The Manly DCP 2013 requires the bedroom and balcony to be setback 1.86m. This element is setback 2m with columns protruding from the wall to 1.84m.

The Manly DCP 2013 requires an 8m setback to the rear boundary. The Manly DCP 2013 also specifies that the rear setback relates to the neighbouring properties. The proposal includes a 5.1m-5.97m setback to the cabana and a 11.5m setback to the dwelling.

Merit consideration:

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

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

Comment:

The neighbouring property to the south is setback 4.5m from the street front boundary. As discussed above, the proposal is setback 4.5m from the front boundary with the first floor balcony projects to a

minimum of 3m. The existing building line on the western side of Laurence Street is angled to allow for reduced setbacks to the properties further up the street. This is evident in the buildings from 7 Laurence Street to 13 Laurence Street where the existing setback is 3m. The buildings further north of 13 Laurence Street also provide minimal street front setbacks, with the exception of 15 Laurence Street which is a seven storey residential flat building setback 6m. The proposed balcony is 1.5m in depth, 4.15m in width and is not covered. The balcony is of a lightweight design and will not impose on the streetscape of the locality. The proposed front setback will not result in any unreasonable impacts on the spatial proportions of the street or the street edge. The development will maintain adequate landscaped areas on the street frontage to maintain the landscape character of the locality.

The proposed non-compliance with the side setback control is minor and will maintain the desired spatial proportions of the street.

Objective 2) To ensure and enhance local amenity by:

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

Comment:

The proposed development will ensure and enhance local amenity for the following reasons:

- The development has been assessed above with regard to clause 3.4.2 Privacy and Security of the Manly DCP 2013. In summary the development was found to maintain a reasonable level of privacy within the locality.
- The development has been assessed above with regard to clause 3.4.1 Sunlight Access and Overshadowing of the Manly DCP 2013. In summary the development was found to maintain equitable access to light and sunshine to the neighbouring properties. The development provides adequate physical separation between buildings to ensure no unreasonable disruption of air movement.
- The development has been assessed above with regard to clause 3.4.3 Maintenance of Views of the Manly DCP 2013. In summary the development was found to maintain adequate view sharing within the locality, subject to the conditions relating to landscaping.
- As discussed above the development is suitably designed within the streetscape. The non-compliance with the setback control will not result in the disruption of any pattern or rhythm of spaces between buildings within the streetscape.
- The development will not impact traffic conditions within the locality.

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

Comment:

The proposal has been assessed with regard to the objectives of this control and the objectives relating to amenity of the Manly DCP 2013 and has been found to be reasonable. The proposed flexibility is appropriate in this circumstance.

Objective 4) To enhance and maintain natural features by:

- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*
- *ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
- *ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

Comment:

The proposal provides compliant Total Open Space Areas and Landscaped Areas. The proposal does not include the removal of any significant landscape features or vegetation. The proposal will enhance the landscaping on the site.

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

Comment:

Not applicable.

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

4.1.5 Open Space and Landscaping

Description of non-compliance

The development proposes tree plantings that exceed the requirements of the Manly DCP 2013. However, due to the potential for these trees to cause view loss a condition of consent is recommended to require the landscape plan be amended to species of that reach a mature height of no greater than 1.8m

Merit consideration:

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

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

Comment:

The proposal includes extensive landscaping to the site and will augment the landscape character of the site.

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

Comment:

The proposal is compliant with the Total Open Space, Landscaped Area and Above Ground Open Space controls of the Manly DCP 2013. The proposal includes tree plantings on the street frontage to maintain the landscape character of the locality.

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

Comment:

The proposal has been assessed above with regard to amenity. The proposed tree plantings to satisfy the Manly DCP 2013 is recommended to be deleted due to view loss. The landscaping subject to the conditions of consent will maintain the amenity of the site streetscape and surrounding area.

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

Comment:

The proposal provides compliant landscaped areas to maximise water infiltration on the site.

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

Comment:

The proposal will not result in the spread of weeds.

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

Comment:

The proposed landscaping will maximise wildlife habitat on the site.

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

4.4.5 Earthworks (Excavation and Filling)

Description of non-compliance

The Manly DCP 2013 permits excavation to generally 1m

Merit consideration:

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

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

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

Comment:

The existing rear yard of the site steps down from the rear boundary to the existing building where it is then generally flat to the street frontage. The topography of the site has been highly altered in the past however, the proposed excavation will generally maintain the fall of the site towards the street. The proposal will maintain the landscape character within the locality. The proposal was supported by a geotechnical report that provided recommendations to ensure no unreasonable impacts within the locality. A condition is recommended to require a dilapidation survey be carried out on the adjoining properties prior to the issue of the construction certificate.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Manly Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

Domestic oil or solid fuel heating appliance

The proposal indicates a fireplace on the first floor plan. Insufficient information has been provided on the plans grant consent to a domestic oil or solid fuel heating appliance. As such, a condition is recommended to specify no consent is granted for domestic oil or solid fuel heating appliance and any domestic oil or solid fuel heating appliance is to lodge a separate application with Council.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;

- Manly Development Control Plan; and
- Codes and Policies of Council.

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/1530 for Demolition works and construction of a dwelling house including swimming pool on land at Lot 7 DP 3408, 13 Laurence Street, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

| Architectural Plans - Endorsed with Council's stamp | | |
|--|--------------|-------------------------|
| Drawing No. | Dated | Prepared By |
| GA01B Site and Roof Plan Revision B | 3/09/2018 | Tim Alexander Architect |
| GA02A Demolition Plan - Revision A | 27/04/2018 | Tim Alexander Architect |
| GA03A Excavation Plan - Revision A | 27/04/2018 | Tim Alexander Architect |
| GA04B Basement Plan - Revision B | 3/09/2018 | Tim Alexander Architect |
| GA05B Ground Floor Plan - Revision B | 3/09/2018 | Tim Alexander Architect |
| GA06B First Floor Plan - Revision B | 3/09/2018 | Tim Alexander Architect |
| GA07B Section A-A - Revision B | 3/09/2018 | Tim Alexander Architect |
| GA08B East and West Elevations - Revision B | 1/09/2018 | Tim Alexander Architect |
| GA09B North and South Elevations - Revision B | 1/09/2018 | Tim Alexander Architect |
| GA10B Pool and Front Fence Details - Revision B | 1/09/2018 | Tim Alexander Architect |

| Reports / Documentation – All recommendations and requirements contained within: | | |
|---|--------------|--------------------|
| Report No. / Page No. / Section No. | Dated | Prepared By |
| Report on Geotechnical Investigation Proposed Residential Development | 18/12/2017 | Douglas Partners |
| Arboricultural Impact Assessment 13 Laurence Street, Manly 2095 | 29/03/2018 | Complete Arborcare |

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

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

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

| Landscape Plans | | |
|--------------------------|--------------|---------------------|
| Drawing No. | Dated | Prepared By |
| Landscape Plan - Issue A | 11/09/2018 | Peter Fudge Gardens |

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

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

2. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures as detailed on the approved plans for any land use of the site beyond the definition of a Dwelling House

A Dwelling House is defined as:

“dwelling house means a building containing only one dwelling.”

(development is defined by the Manly Local Environment Plan 2013 (as amended) Dictionary)

Reason: To ensure compliance with the terms of this consent. (DACPLB03)

3. **Prescribed Conditions**

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

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

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

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

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

Reason: Legislative Requirement (DACPLB09)

4. **General Requirements**

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

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

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

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

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.

- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

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

5. Solid Fuel Heater

No consent is granted for a domestic oil or solid fuel heater. Any domestic oil or solid fuel heating appliance will be required to complete a separate application to Council.

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

FEES / CHARGES / CONTRIBUTIONS

6. Security Bond

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

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

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

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

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

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

7. Vehicle Driveway Gradients

Driveway plans are to be submitted to the Certifying Authority for approval. The submission is to include the plans for the design of driveway which fully complies with the clause 3.3 of Australian/ New Zealand standard Parking Facilities - Part 1: off street car parking (AS/NZS 2890.1.2004). The proposed driveway plan with the proposed of gradients and level must be prepared by an qualified Civil Engineer.

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

Reason: To ensure suitable vehicular access to private property

8. **Tanking of Basement Level**

The basement area is to be permanently tanked. Details of the tanking are to be prepared by a suitably qualified Engineer. Where temporary dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the NSW Office of Water. The bore license must be obtained prior to commencement of dewatering works. All requirements of the NSW Office of Water are to be complied with and a copy of the approval must be submitted to the Principal Certifying Authority. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To prevent ingress of sub-surface flows into the basement area and to comply with State Government Requirements

9. **On-site Stormwater Detention**

An On-site Stormwater Detention system must be designed and constructed in accordance with Northern Beaches Council's current Council's MANLY SPECIFICATION FOR ON-SITE STORMWATER MANAGEMENT 2003 and the concept drawing by Clapham Design Services, drawing number LM103, Rev 1A, dated 6/9/2018.

Detailed drainage plans are to be prepared by a qualified experienced practicing Civil Engineer. The drainage plans must address the following:

1. The outlet pipe leaving the site, must exit at an acute angle of less than 45 degree from the boundary
2. No tree root greater than 50 mm diameter shall be pruned during the installation of the outlet.
3. No sub soil seepage drainage shall be connected into the OSD tank.

Detailed drainage plans, including engineering certification confirming the above requirements have been satisfied and complying with Council's requirements, are to be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.

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

10. **Shoring of Adjoining Property**

Should the proposal require shoring to support an adjoining property or Council land, owner's consent for the encroachment onto the affected property owner shall be provided with the engineering drawings.

Council approval is required if temporary ground anchors are to be used within Council land. A Temporary Ground Anchors (Road Reserve) Application is to be submitted with Council for assessment and approval subject to Council's Fees and Charges. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

11. **Vehicle Crossings Application**

A Driveway Levels and Formwork Inspections Application shall be made with Council subject to the payment of the fee in accordance with Council's Fees and Charges. The fee includes all Council inspections relating to the driveway construction and must be paid.

Approval of the application by Council is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

12. **Basement Carpark**

The basement car parking level is to be adequately protected from flooding. A crest at the driveway must be provided to prevent any potential flooding in the basement. The crest level is to be set by an overland flow study in Laurence Street for the 1 in 100 years ARI storm event. The study must be prepared by a qualified civil engineer. The study is to include, but not be limited to the following information:

- Hydrological Data
- Hydraulics Data
- Catchment plan showing sub-catchments (where applicable)
- computer model analysis
- Top water surface level at the receiving water on drainage layout plan
- Cross-section detailing the 1 in 100 Year ARI water surface level on Laurence Street
- Engineer's Certification that the proposed basement will not be affected by the flood water

Details are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To prevent any property damage due to flood event.

13. **Compliance with standards (Demolition):**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to Council prior to the commencement of demolition works.

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

14. **External Finishes to Roof**

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

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

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

15. **Pre-commencement Dilapidation Report**

The applicant must prepare and submit a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining public and private properties and public

infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

Reason: Protection of Council's and Private Party's Infrastructure during construction.

16. **Amendments to approved plans**

The following amendments are to be made to the approved plans:

- The landscape plan is to be amended to replace all plant species with a mature height of over 1.8m with species that reach a maximum mature height of no greater than 1.8m.
- The southern elevation is to be amended to include a privacy screen adjacent to the spa as noted on GA05B Ground Floor Plan, dated 3 September 2018 and prepared by Tim Alexander Architect.

The amended plans are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure no unreasonable impacts on amenity within the locality.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

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

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

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

18. **Project Arborist**

- i) A Project Arborist with minimum qualification AQF Level 5 is to be appointed prior to commencement of works,
- ii) The Project Arborist is to oversee all tree protection measures, removals and works adjacent to protected trees as outlined in the Arboricultural Impact Assessment dated 29/03/2018, prepared by Complete Arborcare, and AS4970-2009 Protection of trees on development sites,
- iii) The Project Arborist shall be in attendance during all excavation works for the driveway widening near T1- Paperbark, and all excavation works for the pool near T3 and T4 - Paperbarks,
- iv) The Project Arborist shall be in attendance during the excavation works for the stormwater outlet behind the kerb frontage of No. 11 to ensure the retention of the existing Brushbox street tree. Any roots cut must be authorised by the Project Arborist, and any recommendation for stormwater line redirection, root bridging, or root hormone treatments shall be undertaken,
- v) The Project Arborist is to ensure compliance as relevant with any other environmental requirements conditioned under this consent.

Reason: to ensure protection of vegetation proposed for retention on the site and within the road reserve.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

19. **Property Boundary Levels**

The property boundary levels shall match the existing levels except where modified for the vehicular crossing. The applicant shall design and construct having regard for the existing levels. No approval is granted for any change to existing property alignment levels to accommodate the development. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To maintain the existing profile of the nature strip/road reserve

20. **Road Reserve**

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

Reason: Public Safety.

21. **Traffic Control During Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual and to the satisfaction of the Principal Certifying Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety

22. **Vehicle Crossings**

The provision of one vehicle crossing 3 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/ 7 ML and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

23. **Tree and vegetation protection**

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

i) all trees and vegetation within the site, excluding exempt trees under the relevant planning instruments of legislation,

ii) all other trees and vegetation located on adjoining properties,

iii) all road reserve trees and vegetation,

B) Tree protection shall be generally undertaken as follows:

i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on

Development Sites, with particular reference to Section 4, and according to the Arboricultural Impact Assessment prepared by Complete Arborcare,

ii) any tree roots exposed during excavation with a diameter greater than 25mm within the TPZ must be assessed by an Arborist. Details including photographic evidence of works undertaken shall be submitted by an AQF Level 5 Arborist to the Certifying Authority,

iii) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,

iv) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorized by the Project Arborist on site,

v) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,

vi) should either or both iv) and v) occur during site establishment and construction works, a AQF Level 5 Arborist shall provide recommendations for tree protection measures provided. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority.

C) Tree protection shall be specifically undertaken as follows:

i) tree protection fencing to the existing street tree T1- Paperbark shall be in accordance with the Arboricultural Impact Assessment recommendations prepared by Complete Arborcare.

Reason: to retain and protect significant planting on development and adjoining sites.

24. **Protection of rock and sites of significance**

The existing rock outcrop and associated vegetation shall be preserved and protected at all times during excavation and construction works.

Should any Aboriginal sites be uncovered during the carrying out of works, those works are to cease and Council, the NSW Office of Environment and Heritage (OEH) and the Metropolitan Local Aboriginal Land Council are to be contacted

Reason: preservation of significant environmental features

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

25. **Landscape works**

a) Landscaping is to be implemented in accordance with the Landscape Plan LD-01, prepared by Peter Fudge Gardens, issue A, inclusive of the following requirement:

i) all tree planting shall be installed at 75 litre pot size,

ii) the shrub planting along the northern boundary (Acmena 'sublime' and Syzygium 'royal flame') shall be maintained to the top of fence height, as nominated on the plan.

b) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the landscape plan and inclusive of any conditions of consent.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity.

26. Condition of retained vegetation

Prior to the issue of an Occupation Certificate, a report prepared by an AQF Level 5 Arborist (or equivalent), shall be submitted to the Certifying Authority, assessing the health and impact of trees and vegetation required to be retained, including T1, T2, T3, T4, T5, and the existing Brushbox within the road verge frontage of No.11, as a result of the proposed development, including the following information:

- a) Compliance to Arborist recommendations for tree protection and excavation works.
- b) Extent of damage sustained by vegetation as a result of the construction works.
- c) Any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: to ensure compliance with the requirement to retain and protect significant planting on development sites.

27. Landscape maintenance

All landscape components are to be maintained for the life of the development. A maintenance program is to be established. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components and species to maintain the landscape theme and be generally in accordance with the Landscape Plan.

Reason: to maintain local environmental amenity and ensure landscaping continues to soften the built form.

28. Authorisation of Legal Documentation Required for Onsite Detention

The original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land.

29. Registration of Encumbrances for On-site Stormwater Detention

A copy of the certificate of title demonstrating the creation of the positive covenant and

restriction for on-site storm water detention as to user is to be submitted. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land.

30. **Reinstatement of Kerb**

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

Reason: To facilitate the preservation of on street parking spaces

31. **On-Site Stormwater Detention Compliance Certification**

Upon completion of the on-site stormwater detention (OSD) system, certification from a consulting engineer and a "work as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council.

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

Reason: To ensure stormwater disposal is constructed to Council's satisfaction. (DACENF10)

32. **Positive Covenant and Restriction as to User for On-site Stormwater Detention**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction.

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

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

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

33. **Environmental and priority weed control**

All weeds are to be removed and controlled in accordance with the Biodiversity Conservation Act 2016.

Reason: preservation of environmental amenity.

34. **Swimming Pool/Spa Plant noise**

The swimming pool/spa must not generate noise levels of more than 5dBA at the nearest residential receiver.

Reason: To maintain the acoustic privacy of the locality.