

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/0628
Responsible Officer:	Thomas Prosser
Land to be developed (Address):	Lot 34 DP 8075, 8 Bower Street MANLY NSW 2095
Proposed Development:	Alterations and Additions to an existing dwelling house including a secondary dwelling.
Zoning:	Manly LEP2013 - Land zoned E3 Environmental Management
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Development Determination Panel
Land and Environment Court Action:	No
Owner:	Trustees Roman Catholic Church Archdiocese Sydney Gregory Andrew Unsworth
Applicant:	Gregory Andrew Unsworth
Application lodged:	19/04/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New second occupancy
Notified:	23/04/2018 to 09/05/2018
Advertised:	Not Advertised
Submissions Received:	1
Recommendation:	Approval
Estimated Cost of Works:	\$ 2,900,000.00

ASSESSMENT INTRODUCTION

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

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

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

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.6 Exceptions to development standards

Manly Local Environmental Plan 2013 - 6.5 Terrestrial biodiversity

Manly Development Control Plan - 3.1 Streetscapes and Townscapes

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

Manly Development Control Plan - 4.4.2 Alterations and Additions

Manly Development Control Plan - 5.4.2 Threatened Species and Critical Habitat Lands

SITE DESCRIPTION

Property Description:	Lot 34 DP 8075 , 8 Bower Street MANLY NSW 2095
Detailed Site Description:	<p>The subject site consists of an allotment located on the western side of Bower Street.</p> <p>The site is an irregular shape with a frontage of 16.295m along Bower Street and a depth of 59.02m-. The site has a surveyed area of 68.695m².</p> <p>The site is located within the E3 Environmental Management zone and accommodates a dwelling house on site.</p> <p>The site slopes from Bower Street to the rear, sloping approximately 15 metres from the front of the site to the rear.</p> <p>The site is located is adjacent to area zoned for public recreation and is within an area zoned for as Biodiversity, including threatened species.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by dwelling houses on each side of Bower Street.</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:

- DA238/2008 for demolition of the existing dwelling and construction of a four level dwelling with double garage, swimming pool and landscaping was refused by DAU on 9 December 2008 for the following reasons:

1. *The proposed development fails to suitably integrate into the existing streetscape which in turn diminishes the visual amenity of the Foreshore Scenic Protection Area hence the proposal is inconsistent with Clause 17 of the Manly Local Environmental Plan 1988, having regard to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979.*
2. *The proposed development fails to satisfy the objectives as contained within Clauses 10(b), (d) and (h) of the Manly Local Environmental Plan 1988 having regard to Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act, 1979.*
3. *The proposed development fails to satisfy the objectives as contained within Clauses 2.5.1, 3.4.1, 3.5.1 and 3.6.1 of the Manly Development Control Plan for the Residential Zone 2007 – Amendment 1 having regard to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979.*
4. *The proposed development fails to satisfy the provisions contained within Clauses 2.5.2(a), 3.4.2(a), 3.5.3, 3.5.4, 3.6.2, 3.6.4(a) and 4.3.3 of the Manly Development Control Plan for the Residential Zone 2007 – Amendment 1 having regard to Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979.*
5. *The development will have an adverse impact on the existing and emerging built environment having regard to Section 79C(1)(b) of the Environmental Planning and Assessment Act, 1979.*
6. *Given the departure to the crown of the road provisions, the breach in the floor space ratio control, the unsatisfactory relationship the development has to the emerging streetscape and that the proposal fails to suitably integrate into the existing surrounding built environment, the site is not suitable for the development as proposed having regard to*

Section 79C(1)(c) of the Environmental Planning and Assessment Act, 1979.

7. The proposal is not in the public interest, having regard to Section 79C(1)(e) of the Environmental Planning and Assessment Act, 1979.

PROPOSED DEVELOPMENT IN DETAIL

The proposed development is for alterations and additions to the existing dwelling including:

Pool Level

- Proposed bedroom, bar, rumpus area, ensuite, gym, hall, lift and stairs.
- Deck area
- Swimming pool

Lower Floor Plan

- Three bedrooms with ensuites
- Lounge room
- Media room
- Wine Cabinet
- Communications
- Stairs
- Lift
- Deck area

Ground Floor Plan

- New lounge
- New Study
- New laundry
- Master bedroom
- Ensuite
- Deck

Entry Floor Plan

- Alterations and additions to existing ground floor level to provide for new entry, foyer, powder, open plan lounge, dining and kitchen with butler's pantry, timber deck with BBQ area
- Internal access stairs and lift shaft

External Works

- New concrete driveway and attached double carport with store
- Landscaping

Secondary Dwelling

- Open plan living
- Bedroom
- Bathroom
- WC
- Laundry

- Attached deck

Note: The applicant provided comment that agreement was made for a condition to delete the proposed secondary dwelling.

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

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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

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

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate prepared by Building

Code & Bushfire Hazard Solutions Pty Ltd, dated 23 February 2018 stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Mr Max Chipchase	57 A Gardere Avenue CURL CURL NSW 2096

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

- Non-compliance with FSR and Building height
- Non-compliance with development controls under Manly DCP 2013.
- Proposed dwelling is more substantial than dwelling refused under DA238/2008.
- Adverse amenity impacts caused by bulk and scale.
- Inconsistent with planning principle for views
- Inconsistent with existing and desired character of residential areas

The matters raised within the submissions are addressed as follows:

- Non-compliance with FSR and Building height
Comment:
As required by Clause 4.6 of the Manly LEP, the applicant has provided a request to vary the development standards of building height and FSR. Subject to the deletion of the outbuilding to reduce the floor space ratio, the application has adequately addressed the matters required to be demonstrated by subclause (3) as explained in this report.
- Non-compliance with development controls under Manly DCP 2013.
Comment:
The non-compliance with numerical controls under the Manly DCP have been assessed in this report in accordance with the underlying objectives of each clause. This assessment has found the proposal to be reasonable.
- Proposed dwelling is more substantial than dwelling refused under DA238/2008.
Comment:
The proposed dwelling has been assessed under separate controls and standards. It is also noted that the proposed dwelling better responds to the topography of the land (by stepping down the site) as opposed to the development proposed under the refusal under DA238/2008.
- Adverse amenity impacts caused by bulk and scale
Comment:
An assessment of the impacts including under clause 3.4 for Amenity, has found the proposal to

be reasonable.

- Inconsistent with planning principle for views

Comment:

An assessment of the court established planning principle for views has found the proposal to be reasonable in terms of view impact. This is largely due to the extent of view loss being considered across the whole property and the impacted area being solely over a side boundary (which the planning principle states is an area that is more difficult to protect).

- Inconsistent with existing and desired character of residential areas

Comment:

The proposal is for alterations and additions to the existing dwelling to provide an upgraded presentation at the frontage. Although this presentation is not consistent with the predominant style on this side of the street, the alterations and additions to an existing element will provide a positive outcome.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p>
Landscape Officer	<p>The landscape component of the proposal is acceptable, subject to completion of the proposed landscaping and protection of existing vegetation.</p> <p>Comments: Pool has some concerns whether it meets Australian Standards for pools and non climbable area of 900mm and the opening of the pool to planting area on western boundary of pool.</p> <p>Tree protections would be required for TRZ of trees located on property No 32 Bower Street, which is not addressed in the attached Arborist Assessment report submitted by Peake Arbouriculture date 19/02/2018</p> <p>Trees proposed on the planting plan will meet council requirements for additional four trees required planting.</p>



Internal Referral Body	Comments
NECC (Bushland and Biodiversity)	<p>Updated NECC (Biodiversity) Comments (31 August 2018): This updated assessment is subject to imposition of a condition of consent to delete the proposed outbuilding in the rear yard and retain/replace landscaped area in the proposed outbuilding location, as per Assessing Officer's comment below. Deletion of the proposed outbuilding and retention/replacement of landscaped area will assist in retaining some environmental values on the land and achieve greater compliance with the objectives of Manly LEP 2013 Clause 6.5 (Terrestrial Biodiversity). Conditions of consent are recommended to improve the ecological values of proposed landscaping and maintain some wildlife access to surrounding habitat.</p> <p>NECC (Biodiversity) Comments (5 July 2018): Council's Biodiversity Section does not support the proposed development. The proposal has been assessed against the following provisions:</p> <ul style="list-style-type: none">- NSW <i>Biodiversity Conservation Act 2016</i>- Manly DCP 2013 5.4.2 (Threatened Species and Critical Habitat Lands)- Manly LEP Clause 6.5 (Terrestrial biodiversity) <p>A Flora and Fauna Report (GIS Environmental Consultants, 23 March 2018) has been submitted in support of the DA and includes Tests of Significance (or 'five-part tests') for the endangered population of long-nosed bandicoots at North Head and the grey-headed flying-fox as listed under the <i>Biodiversity Conservation Act 2016</i> (BC Act).</p> <p>The report states that the site currently contains approximately 700m² of good quality bandicoot foraging habitat and that the development will result in the removal of 43% of this habitat. A site visit by Council's Natural Environment Officer confirms that the site contains evidence of frequent bandicoot foraging activity in the garden beds and lawn of the front and rear yards, in addition to potential nesting habitat in the form of garden beds. The Flora and Fauna Report provides a number of ameliorative conditions to maintain bandicoot access through and within the site, and states that the removal of 298m² of good quality foraging habitat represents a negligible change to the total extent (385ha) of available habitat within the population's distribution. The report concludes that the proposal is therefore unlikely to result in a significant impact to the endangered population.</p> <p>The Flora and Fauna Report also includes a five-part test for impacts on the grey-headed flying-fox associated with the removal of two <i>Ficus rubiginosa</i> trees. The five-part test concludes that the removal of a small amount of potential foraging habitat is unlikely to result in a significant impact to the species.</p>



Internal Referral Body	Comments
	<p>Council's Biodiversity Section accept the five-part tests' conclusions that the proposal is unlikely to result in a significant impact to the long-nosed bandicoot population and the grey-headed flying-fox.</p> <p>The site is also subject to Clause 6.5 (Terrestrial Biodiversity) of the Manly LEP, which requires the consent authority to consider whether the development is likely to have an adverse impact on the condition; ecological value; flora/fauna significance; vegetation; biodiversity structure, function and composition of the land; or habitat elements providing connectivity on the land. The consent authority must also consider any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p> <p>Soft open space in the rear yard is likely to contribute to habitat connectivity between the Bower Street and Shelly Beach Council Reserves and the North Head National Park and Catholic Church-owned bushland to the east of the site. Furthermore, the rear yard is known and/or likely to be used by a range of native fauna including long-nosed bandicoots, possums, water skinks, cockatoos, lorikeets, noisy miners, water dragons, frogs and brush-turkeys. The proposal will result in a substantial loss of soft open space in this area, with much of the existing deep-soil landscaping to be replaced by rooftop landscaping which will provide minimal wildlife habitat value.</p> <p>The submitted Flora and Fauna Report states that the development has been designed and sited to reduce environmental impact due to "the constraint of the small lot size, the small amount of habitat on the site and the dense urbanization of the area" and that it involves "minimal changes to the existing development footprint". This conclusion is not supported by Council. The development represents a substantial increase in site coverage (from 30% to 66%) and includes several elements which are not ancillary to operation of a primary dwelling (e.g. detached secondary dwelling, pool and pool house, media room, communications area). Given this substantial increase in site coverage and the recognised non-compliance with DCP Clause 4.4 (Floor Space Ratio), it is considered that the applicant has not adequately demonstrated that the proposal has been designed, sited and will be managed to avoid, minimise and mitigate impacts to biodiversity value of the land. It is therefore considered that the proposal is inconsistent with the objectives of Manly LEP Clause 6.5 (Terrestrial Biodiversity).</p> <p>Assessing officer comment</p> <p>As a result of the non-compliance with Floor Space Ratio along with issues regarding biodiversity (as above), open space and privacy, the proposed secondary dwelling/outbuilding is not supported from a planning perspective. As such a condition has been imposed to delete the secondary dwelling/ outbuilding from the plans prior to the issue of a Construction Certificate.</p> <p>As such, the application was referred back to Council's Biodiversity officer for comment based on this condition being imposed.</p>

Internal Referral Body	Comments
NECC (Coast and Catchments)	<p>This assessment constitutes the assessment for DA2018/0628 relating specifically to the coastal management requirements.</p> <p>The assessment is based on the review of submitted documentation for DA2018/0628 and the assumption that all documented structures and procedures are applied and recommendations followed.</p> <p>It is recommended that the Development Application be approved with the following conditions:</p>
NECC (Development Engineering)	<p>The propose floor level of the carport is RL 26.25 which is about 720 mm lower than the existing street kerb level.</p> <p>It is too low to install a Council's standard driveway crossing on road reserve.</p> <p>To install an accessible driveway, the carport's floor level needs to be raised at least 400 mm.</p> <p>As such, the carport's floor level shall be RL 26.65.</p> <p>A condition has been place in the consent to address the change.</p> <p>Development Engineer has no objection to the application subject to the conditions of consent.</p> <p><u>Assessing officer comment</u></p> <p>The raising of the carport level in front of the house would maintain a reasonable floor to ceiling height for a car space. Additionally, there would be no unreasonable visual impact or amenity impact that would arise from the raise in floor level.</p>
Strategic and Place Planning (Heritage Officer)	<p>Further to a review of the available documents and site visit, The site of proposed development is not a listed heritage item in its own right, however, it is located in vicinity of heritage items, including the St Patrick's Estate across Bower Street.</p> <p>Given the nature of the proposal and the item, the impact on heritage values is assessed as acceptable.</p> <p>Based on the above, I have no objections to this proposal from heritage perspective.</p> <p>Proposal is acceptable without conditions.</p> <p>Kind Regards Zoran Popovic Heritage Adviser</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>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.</p>

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 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A312650 dated 7 April 2018).

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory

period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.1m-10.25m	20.6%	No, see comments.
Special height provisions	Must not exceed the height of the highest point of the road (RL26.66)	RL29.89	N/A	No, see comments.
Floor Space Ratio Site area: 973m²	FSR: 0.45:1 (437.85m ²)	FSR: 0.567:1 (552.3m ²) (with condition to remove studio) FSR: 0.619:1 (602.3m ²) (without condition)	26.1% 37.6%	No, see comments.

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No
4.3A Special height provisions	No
4.4 Floor space ratio	No
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.5 Terrestrial biodiversity	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes

Detailed Assessment

4.6 Exceptions to development standards

Height of buildings

Requirement:	8.5m
Proposed:	10.25m
Is the planning control in question a development standard?	YES
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical.
If numerical enter a % variation to requirement	20.6%

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

Is the planning control in question a development standard?

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

What are the underlying objectives of the development standard?

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

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

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

Comment:

The proposed dwelling is non-compliant with the development standard of 8.5m at the rear section of the upper entry floor level of the house. This entry floor level is an existing storey level of the dwelling and as such, the alterations and additions which are non-compliant with the development standard are to the rear of this storey. As a result, the presentation of the non-complying height element is substantially obscured by the frontage of the existing dwelling and the dwelling will therefore provide a similar presentation of roof form and building height within the streetscape. Additionally, the proposed development steps down the site with the topography so that the majority of the dwelling is 1-2 storeys.

b) to control the bulk and scale of buildings,

Comment:

The proposal provides a single storey presentation from the streetscape and steps down the site with the topography to ensure that the bulk and scale of the dwelling is evenly spread so as to minimise amenity impact and provide a reasonable visual presentation. Subject to the condition to delete the outbuilding, the proposal will also be compliant with the controls for open space and landscaped area to ensure that the built form on the property does not provide an overbearing bulk and scale.

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:

An assessment of the proposal under the Land and Environment Court established views principle in this report along with the assessment under the section for views under the Manly DCP, has found that the proposal will reasonably minimise disruption to loss of views.

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 is compliant with the controls for Sunlight Access and Overshadowing under the Manly DCP and as a result of the orientation of the dwelling, there will be no unreasonable overshadowing to the public space at the rear.

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

Comment:

The subject site is in the zone E3 Environment Management under the Manly LEP 2013. The proposed height and bulk of the development is provided behind and below the frontage of the existing dwelling whilst the dwelling has a compliant setback to the rear to ensure an open space corridor between the dwelling and this public space. The proposed dwelling also steps down with the site to provide a one storey nature for the front and rear section of the dwelling, along with a two to three storey nature for the middle section of the dwelling. Subject to conditions, the landscaped area is also compliant with the control under the Manly DCP to ensure appropriate regard to existing vegetation.

What are the underlying objectives of the zone?

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

The underlying objectives of the E3 Environmental Management zone

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

Comment:

The proposal provides a dwelling that minimises visual presentation at the street and provides appropriate landscaping to the rear to ensure protection, management and restoration of the above values.

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

Comment:

The proposed alterations and additions to the dwelling provide for a development that is consistent and complementary with uses and character of the area.

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

Comment:

The landscaping to the rear and compliant setback of the dwelling to the public recreation zone ensures that the proposal minimises impact on the natural environment including tree canopies.

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

Comment:

The proposal provides a corridor for landscaping at the rear and a compliant rear setback to the rear of the dwelling to ensure the proposal would not negatively impact on the above.

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

Comment:

Subject to conditions, the proposal will be compliant with the control for landscaped area and this will provide an appropriate outcome in this circumstance.

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

Comment:

The proposed additions step down with the topography of the site and provides appropriate modulation to have regard to vegetation and surrounding land uses.

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

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

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

Comment:

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

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

Comment:

It is appropriate to allow flexibility in this circumstance as the non-compliance of the proposal with the numerical standard for building height would not result in any unreasonable impact on amenity and the proposed development would be visually appropriate given the context of the site and topographical nature of the surroundings.

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

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

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

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

Comment:

The applicant has provided a request to vary the height of building development standard including the following justification:

"It is unreasonable and unnecessary to require strict compliance with the development standard as the proposal provides for additions and alterations to an existing dwelling, which are constrained by the siting of the existing building and sloping topography of the site. Council's controls in Clause 4.3 provide a maximum overall height of 8.5m. It is considered that the proposal achieves the Objectives of Clause 4.3 and that the development is justified in this instance for the following reasons:

- The proposed works will maintain consistency with the general height and scale of residential development in the area and the character of the locality.*
- The proposed works have been designed to respect the sloping topography of the site.*
- The proposed height and the overall scale of the new works will maintain amenity and appropriate solar access for the subject site and neighbouring properties.*

For the above reasons it would therefore be unreasonable and unnecessary to cause strict compliance with the standard."

and

"The development is justified in this instance for the following reasons:

- Compliance with the height control is constrained by the siting of the existing dwelling and sloping topography of the site.*

- The proposed development is designed to respect the sloping topography of the site. The development does not result in a significant bulk when viewed from either the street or the neighbouring properties.
- The development will maintain a compatible scale relationship with the newer existing residential development in the area. Development in the vicinity has a wide range of architectural styles and the given the variety in the scale of development, this proposal will reflect a positive contribution to its streetscape.
- The extent of the proposed new works where they are not compliant with Council's maximum height control do not present any significant impacts in terms of view loss for neighbours, loss of solar access or unreasonable bulk and scale."

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

(a) the consent authority is satisfied that:

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

Comment:

The applicants written request has adequately addressed the matters required to be demonstrated by subclause 3 as above. Council is satisfied that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

there are sufficient environmental planning grounds to justify contravening the development standard.

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

Comment:

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

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

Comment:

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to the development standards under environmental planning instruments that adopt Clause 4.6 of the standard instrument where the variation to a numerical standard is no greater than 10%. In this case there is a variation of greater than 10% (to height). However, following advice from the Department of Planning and Environment, single dwellings with a variation of more than 10% for building height may be determined by a delegate of Council. As such, the proposal has been referred to the Development Determination Panel for determination.

Requirement:	RL26.66
Proposed:	RL29.89
Is the planning control in question a development standard?	YES
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical
If numerical enter a % variation to requirement	N/A

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

Is the planning control in question a development standard?

The prescribed Special height provisions limitation pursuant to Clause 4.3A of the MLEP 2013 is a development standard.

What are the underlying objectives of the development standard?

The underlying objectives of the standard, pursuant to Clause 4.3A – 'Special height provisions' of the MLEP 2013 are:

(1) The objective of this clause is to maintain public views to Sydney Harbour from street level on local roads above steeply sloping sites on certain land.

Comment:

The proposal is for alterations and additions to the existing dwelling including changes to the existing front level of the dwelling and the addition of an open carport. The proposal is to be no higher than the ridge level of the existing dwelling and provides an open carport in front of this dwelling. As a result, the alterations won't result in any unreasonable change to views to the harbour from the area.

What are the underlying objectives of the zone?

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

The underlying objectives of the E3 Environmental Management zone

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

Comment:

The proposal provides a dwelling that minimises visual presentation at the street and provides appropriate landscaping to the rear to ensure protection, management and restoration of the above values.

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

Comment:

DA2018/0628

The proposed alterations and additions to the dwelling provide for a development that is consistent and complementary with uses and character of the area.

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

Comment:

The landscaping to the rear and compliant setback of the dwelling to the public recreation zone ensures that the proposal minimises impact on the natural environment including tree canopies.

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

Comment:

The proposal provides a corridor for landscaping at the rear and a compliant rear setback to the rear of the dwelling to ensure the proposal would not negatively impact on the above.

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

Comment:

Subject to conditions, the proposal will be compliant with the control for landscaped area and this will provide an appropriate outcome in this circumstance.

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

Comment:

The proposed additions step down with the topography of the site and provides appropriate modulation to have regard to vegetation and surrounding land uses.

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

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

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

Comment:

The lack of unreasonable impact on public views along with the existing development being improved through alterations and additions to refurbish an existing non-complying element (with special height provisions) along with the addition of a carport, provides an appropriate outcome

for the development.

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

Comment:

The proposal will provide for covered car parking to the front of the site along with refurbishment to the front of the dwelling. In this circumstance, flexibility is warranted as this outcome can be achieved without having any unreasonable impact on views from public areas.

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

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

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

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

Comment:

The applicant has provided a request to vary the height of building development standard including the following justification:

"It is unreasonable and unnecessary to require strict compliance with the development standard as

the proposal provides for additions and alterations to an existing dwelling, which are constrained by the siting of the existing building and sloping topography of the site.

Council's controls in Clause 4.3A prescribe that a building within the "Special height provisions" area is not to exceed the height of the highest point of the road adjoining the centre point of the lot boundary that adjoins the road that is the frontage to that lot.

The proposed works seek to add to and alter the existing dwelling, with the predominant roof form facing the street being retained. The existing ridge level is RL 30.59 and all new works will be at or below this existing level, which will present a height of up to 4.31m above the centre line of the road level, which has been identified as RL 26.28.

The majority of the proposed additions to the existing dwelling are predominantly towards the rear of the site and largely screened by the existing ridge line. All new works are at or below the existing ridge level of RL 30.59. As a result, the new works will not result in a significant change to the existing views enjoyed from the public domain.

Views from the site are not towards Sydney Harbour, however the panoramic views towards Manly Beach and the ocean are worthy of preserving.

It is considered that the proposal achieves the Objectives of Clause 4.3A and that the development is justified in this instance for the following reasons:

- The proposed works will maintain consistency with the general height and scale of the existing roof form within the site and the surrounding residential development in the area, together with the character of the locality.*

- *The proposed works have been designed to respect the sloping topography of the site.*
 - *The proposed height and the overall scale of the new works will maintain amenity and appropriate solar access for the subject site and neighbouring properties.*
- For the above reasons it would therefore be unreasonable and unnecessary to cause strict compliance with the standard."*

and,

"Council's controls in Clause 4.3A prescribe that a building within the "Special height provisions" area is not to exceed the height of the highest point of the road adjoining the centre point of the lot boundary that adjoins the road that is the frontage to that lot.

The proposed works seek to add to and alter the existing dwelling, with the predominant roof form facing the street being retained. The existing ridge level is RL 30.59 and all new works will be at or below this existing level, which will present a height of up to 4.31m above the centre line of the road level which has been identified as RL 26.28.

6

The development is justified in this instance for the following reasons:

- *The proposal is seeking to add to and alter an existing dwelling, with the predominant roof form facing the roadway to be retained.*
- *Compliance with the height control is constrained by the siting of the existing dwelling and sloping topography of the site.*
- *The proposed development is designed to respect the sloping topography of the site. The development does not result in a significant bulk when viewed from either the street or the neighbouring properties.*
- *The development will maintain a compatible scale relationship with the newer existing residential development in the area. Development in the vicinity has a wide range of architectural styles and the given the variety in the scale of development, this proposal will reflect a positive contribution to its streetscape.*
- *The extent of the proposed new works where they are not compliant with Council's maximum height control do not present any significant impacts in terms of additional view loss from the public domain."*

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

(a) the consent authority is satisfied that:

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

Comment:

The applicants written request has adequately addressed the matters required to be demonstrated by subclause 3 as above. Council is satisfied that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

there are sufficient environmental planning grounds to justify contravening the development standard.

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

Comment:

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

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

Comment:

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to the development standards under environmental planning instruments that adopt Clause 4.6 of the standard instrument where the variation to a numerical standard is no greater than 10%. In this case there is a variation of greater than 10% (to FSR and height). However, following advice from the Department of Planning and Environment, single dwellings with a variation of more than 10% for floor space ratio or building height may be determined by a delegate of Council. As such, the proposal has been referred to the Development Determination Panel for determination.

Floor space ratio

Numerical

Requirement:	0.45:1 (437.85m ²)
Proposed:	0.567:1 (552.3m ²)
Is the planning control in question a development standard?	YES
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	
If numerical enter a % variation to requirement	26.1%

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

Is the planning control in question a development standard?

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

What are the underlying objectives of the development standard?

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

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

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

Comment:

The proposal provides for additional floor space to the rear of the existing dwelling and

downslope. In this location, the floor space will not be easily visible from the street as a result of the existing front single storey obscuring the area downslope. As a result, the proposed additions to the rear will ensure that the streetscape character will be consistent with the existing and desired character.

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

Comment:

The proposed dwelling steps down with the site and has a compliant rear setback to ensure that appropriate corridors are maintained to allow for outlook and views to landscape and townscape features.

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

Comment:

The proposal maintains the design of the front section of the dwelling and provides floor space to the rear to step down with the slope of the site. This ensures an appropriate visual relationship between the existing development on this side of the street and the proposal. Additionally and subject to conditions, the proposal provides compliant landscaping to the rear to ensure that appropriate visual relationship will be maintained.

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

Comment:

The proposal provides compliance with the numerical controls for Sunlight Access and Overshadowing under the Manly DCP and provides an appropriate design for privacy by providing screening and appropriate window design in locations that have potential unreasonable privacy impacts.

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

Comment:

Not applicable.

What are the underlying objectives of the zone?

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

The underlying objectives of the E3 Environmental Management zone

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

Comment:

The proposal provides a dwelling that minimises visual presentation at the street and provides appropriate landscaping to the rear to ensure protection, management and restoration of the above values.

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

Comment:

The proposed alterations and additions to the dwelling provide for a development that is consistent and complementary with uses and character of the area.

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

Comment:

The landscaping to the rear and compliant setback of the dwelling to the public recreation zone ensures that the proposal minimises impact on the natural environment including tree canopies.

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

Comment:

The proposal provides a corridor for landscaping at the rear and a compliant rear setback to the rear of the dwelling to ensure the proposal would not negatively impact on the above.

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

Comment:

Subject to conditions, the proposal will be compliant with the control for landscaped area and this will provide an appropriate outcome in this circumstance.

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

Comment:

The proposed additions step down with the topography of the site and provides appropriate modulation to have regard to vegetation and surrounding land uses.

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

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

Comment:

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

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

Comment:

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

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

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

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

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

Comment:

The applicant has provided a request to vary the height of building development standard including the following justification:

"It is unreasonable and unnecessary to require strict compliance with the development standard as the proposal provides for the construction of alterations & additions to and existing dwelling including construction of a new detached secondary dwelling, swimming pool, carport and associated landscaping, which is constrained by the extent of the existing development on site. It is considered that the proposal achieves the Objectives of Clause 4.4 and that the development is justified in this instance for the following reasons:

-The proposal presents a modest single storey scale to Bower Street due to the sloping topography of the site. The proposed garage is considered to be in keeping with the streetscape appearance of development along Bower Street.

-The proposed overall bulk and scale of the new works will maintain amenity and appropriate solar access for the subject site and neighbouring properties.

*-As demonstrated in the supporting architectural images provided with the application, a significant area of the proposed new floor space is provided below the existing ground levels, which assists in reducing the visual bulk of the proposed new floor space.
For the above reasons it would therefore be unreasonable and unnecessary to cause strict compliance with the standard."*

and

"The proposal seeks to provide a floor space ratio of 596.17m² or 0.61:1 which presents a variation to the control of 157.97m².

The development is justified in this instance for the following reasons:

- The proposed new works will largely maintain the existing bulk and scale of the dwelling as it presents to Bower Street.*
- The development will maintain a compatible scale relationship with the existing residential development in the area. Development in the vicinity has a wide range of architectural styles and the given the variety in the scale of development, this proposal will reflect a positive contribution to its streetscape.*
- The proposed works do not present any unreasonable impacts for neighbours in terms of view loss, loss of solar access or bulk and scale."*

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

(a) the consent authority is satisfied that:

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

Comment:

The applicants written request has adequately addressed the matters required to be demonstrated by subclause 3 as above. Council is satisfied that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

there are sufficient environmental planning grounds to justify contravening the development standard.

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

Comment:

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

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

Comment:

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions

to the development standards under environmental planning instruments that adopt Clause 4.6 of the standard instrument where the variation to a numerical standard is no greater than 10%. In this case there is a variation of greater than 10% (to FSR). However, following advice from the Department of Planning and Environment, single dwellings with a variation of more than 10% for floor space ratio or building height may be determined by a delegate of Council. As such, the proposal has been referred to the Development Determination Panel for determination.

6.5 Terrestrial biodiversity

Subject to conditions.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 973m²	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	North: 8m (based on gradient 1:4+)	9.5m	18.75	No, see comments.
	South: 8m (based on gradient 1:1.4+)	5.9m	N/A	Yes.
4.1.2.2 Number of Storeys	2	3	N/A	No, see comments.
4.1.2.3 Roof Height	Height: 2.5m	1.9m	N/A	Yes.
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	0m (to carport) 6m (to dwelling)	N/A	No, see comments. Yes.
4.1.4.2 Side Setbacks and Secondary Street Frontages	North: 3.17m (based on wall height)	1.4m	N/A	No, see comments.
	South: 1.97m (based on wall height)	1.2m	N/A	No, see comments.
	Windows: 3m	1.2-1.4m	N/A	No, see comments.
4.1.4.4 Rear Setbacks	8m	19.6m (pool area)	N/A	Yes.
4.1.4.6 Setback for development adjacent to LEP Zones RE1, RE2, E1 and E2	8m (rear boundary)	1m	N/A	No, subject to condition outbuilding is to be deleted.
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3 (based on condition to delete outbuilding and convert to landscaped area)	Open space 55% of site area (535.15m ²)	63.2% (615m ²)	N/A	Yes.
	Open space above ground 25% of total open space	13.8% (85m ²)		

4.1.5.2 Landscaped Area (based on condition to delete outbuilding and convert to landscaped area)	Landscaped area 35% of open space	58.5% (360m ²)	N/A	Yes.
4.1.5.3 Private Open Space	18m / 12sqm per dwelling	45sqm	N/A	Yes.
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	6.6m	N/A	No, see comments.
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	1m	N/A	Yes.
	1m curtilage/1.5m water side/rear setback	1.2m/3.3m/19.6m	N/A	Yes.
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces	N/A	Yes.

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.5 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
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
Facilities)		
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
5.4.2 Threatened Species and Critical Habitat Lands	Yes	Yes

Detailed Assessment

3.1 Streetscapes and Townscapes

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 proposal includes the addition of a carport to the front of the dwelling which has a front façade to be substantially retained. The carport will be open in nature, appear as an ancillary feature to the dwelling (pitched roof and connected to the dwelling) and integrate landscaping to ensure that there is not a substantial amount of bulk introduced to an area that negative visual impact.

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

Comment:

The proposed alterations and additions including the changes to the front of the dwelling and the addition of a carport ensure provide a design that would integrate with the style of the existing dwelling and in doing so complement the streetscape. The existing dwelling does not follow the predominant character of dwellings on this side of the street being located lower than the ridge of the road. As a result, the additions including of the carport which provide a similar pitched roof style to the existing dwelling ensure that the development would complement with the identified streetscape.

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

Comment:

In this circumstance, the proposal appropriately integrates landscaping and car parking o the front of 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.

3.4.2 Privacy and Security

Merit consideration:

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

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

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

Comment:

The proposal provides a design for side elevations including screening and appropriate window form to ensure that there is reasonable minimisation of privacy loss. This includes windows at the south elevation that are all highlight style (above ground level) to ensure that the opportunity for overlooking between properties is adequately reduced. In addition, the larger windows on the north elevation are provided in an appropriate location and have an appropriate orientation to ensure that there would also be no unreasonable overlooking on this side of the property.

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 screens provided for the deck areas at the rear provide appropriate screening at the side elevations and are limited in extent to be compliant with the control under the Manly DCP 2013 for open space above ground. As these rear decks along with the rear of neighbouring properties are orientated to the west and toward the ocean, these privacy screens can be provided whilst also maintaining access to light, air and views to the west. This provides an appropriate compromise between privacy and other amenity for the subject site and neighbouring properties.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The proposal provides windows and entrance areas to ensure opportunity for awareness of neighbourhood security.

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

3.4.3 Maintenance of Views

Merit consideration:

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

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

Comment:

The subject site and adjoining properties have rear orientation that has access to views toward the ocean. As a result of the ocean being directly to the rear of these dwellings, the proposed development that provides a compliant rear setback and a design to step down with the topography of the land, provides a consistent design for the area to reasonably maintain existing views to the rear whilst also providing views for the new development. This is acceptable view sharing.

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

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

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

Comment:

The views to be affected are horizon and ocean views that are made partial in some areas by distant vegetation (see Photo 1).



Photo 1: Views from 10 Bower Street

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

Comment:

The views are obtained from directly over a side boundary from outdoor open space area to the front and side of the site at 10 Bower Street. In addition, views are also obtained over the side boundary from lower level living spaces. The views can be obtained from standing and sitting position.

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:

Given the views over the side boundary and to the rear that are retained for the whole property, the extent of the impact is negligible.

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

Comment:

The development is compliant with the rear setback control and the proposed dwelling steps down with the topography of the site. Along with the negligible impact when views from the whole property are considered, this is a reasonable outcome in terms of view impact.

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 a result of the compliant rear setback and the opportunity for views to the rear being substantially retained, there would be no substantiative opportunity for the increase in view creep as a result of the development.

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 proposal is non-compliant with the control for wall height at the northern elevation. The requirement is 8m and the proposed height is 9.5m.

The proposal is also non-compliant with the control for number of storeys. The requirement is for 2 storeys and the proposal is for 3.

Merit consideration:

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

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

Comment:

The proposed dwelling is non-compliant with the development standard of 8.5m at the rear section of the upper entry floor level of the house. This entry floor level is an existing storey level of the dwelling and as such, the alterations and additions which are non-compliant with the development standard are to the rear of this storey. As a result, the presentation of the non-complying height element is substantially obscured by the frontage of the existing dwelling and the dwelling will therefore provide a similar presentation of roof form and building height within the streetscape. Additionally, the proposed development steps down the site with the topography so that the majority of the dwelling is 1-2 storeys.

b) to control the bulk and scale of buildings,

Comment:

The proposal provides a single storey presentation from the streetscape and steps down the site with the topography to ensure that the bulk and scale of the dwelling is evenly spread so as to minimise amenity impact and provide a reasonable visual presentation. Subject to the condition to delete the outbuilding, the proposal will also be compliant with the controls for open space and landscaped area to ensure that the built form on the property does not provide an overbearing bulk and scale.

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:

An assessment of the proposal under the Land and Environment Court established views principle in this report along with the assessment under the section for views under the Manly DCP, has found that the proposal will reasonably minimise disruption to loss of views.

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 is compliant with the controls for Sunlight Access and Overshadowing under the Manly DCP and as a result of the orientation of the dwelling, there will be no unreasonable overshadowing to the public space at the rear.

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

Comment:

The subject site is in the zone E3 Environment Management under the Manly LEP 2013. The proposed height and bulk of the development is provided behind and below the frontage of the existing dwelling whilst the dwelling has a compliant setback to the rear to ensure an open space corridor between the dwelling and this public space. The proposed dwelling also steps down with the site to provide a one storey nature for the front and rear section of the dwelling, along with a two to three storey nature for the middle section of the dwelling. Subject to conditions, the landscaped area is also compliant with the

control under the Manly DCP to ensure appropriate regard to existing vegetation.

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 proposal is non-compliant with the front setback to the carport being 0m.

The proposal is non-compliant with the numerical control for side setbacks. The control is 3.17m for the north and the proposed setback is 1.4m. The control is 1.97m at the south and the proposed setback is 1.2m.

The proposal is non-compliant with the control for setbacks to windows. The control is 3m and the proposal is for 1.2m-1.4m.

Subject to a condition, the outbuilding that is non-compliant to with the rear setback control and the control for setback to RE1 zone, is to be deleted.

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 proposal will maintain the existing front presentation of the dwelling. This presentation is unique in the street, however, as the proposal is for alterations and additions to the existing dwelling, the upgraded presentation of this existing element is an appropriate outcome for the streetscape.

Objective 2) To ensure and enhance local amenity by:

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

Comment:

The proposal provided appropriate window design, screening and physical separation to provide an appropriate level of privacy. The proposal is compliant with the requirements for Sunlight and

Overshadowing under the Manly DCP and also provides a large rear setback to the dwelling to ensure appropriate access to light, air and views.

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

Comment:

The location of additional floor space to the rear of the existing front element is an appropriate siting as it is not easily visible from the street and is reasonably separated from neighbouring properties.

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:

Subject to the deletion of the outbuilding, the proposal will provide a compliant amount of landscaped area and open space to enhance and maintain natural features.

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

Comment:

A bushfire report has been provided and appended as reference documentation as part of this report.

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

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

Description of non-compliance

The proposal is non-compliant with the numerical control which requires a maximum width of car parking at the frontage to be 50% of the site frontage up to a maximum of 6.2m. The proposed width is 6.6m.

Merit consideration:

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

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

Comment:

The alterations and additions to the building would result in providing a parking space on site that can be adequately accessed from the street.

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

Comment:

The proposal provides for two car parking spaces on site which is an addition of one space to the existing circumstance and would further reduce the demand for car parking on site.

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

Comment:

Then proposed garage area is integrated into the design of the dwelling along with landscaping surrounding to assist in minimising visual impact on the streetscape. The car parking is also reasonably setback from the street to ensure access and egress is safe and efficient.

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

Comment:

The proposed area for parking is at street level and provides minimal excavation.

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

Comment:

The proposed driveway crossing provides an adequate size access for two cars to the proposed carport, to ensure width and number of footpath crossings is minimised.

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

Comment:

The proposal is compliant with the control for landscaped area and provides a landscaping surrounding the carport. This provides an appropriate integration of car parking and landscaping.

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

Comment:

The proposal provides adequate on-site parking to be consistent with the number of spaces required by the Manly DCP. As such, further limiting onsite parking is not appropriate 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.

4.4.2 Alterations and Additions

Pursuant to Clause 4.4.2a), the proposed demolition for the existing house is less than half the building and as such is not assessed as a whole new building under this clause (or for controls in this plan-Manly DCP).

An assessment in accordance with the court established planning principle for demolition also found the proposed development to be for alterations and additions for the purposes of assessment. The existing dwelling is substantially retained, and additionally, the additions are substantially to the rear and downslope so that the presentation of the new works would not be easily visible from the street.

5.4.2 Threatened Species and Critical Habitat Lands

Consistent with clause subject to deletion of outbuilding.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Manly Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

CONCLUSION

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

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

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any

unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/0628 for Alterations and Additions to an existing dwelling house including a secondary dwelling. on land at Lot 34 DP 8075, 8 Bower Street, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA3- Site Analysis Plan	090418	SketchArc
DA4- Pool House Floor Plan	090418	SketchArc
DA5- Pool House Floor Plan	090418	SketchArc
DA6- Lower Floor Plan	090418	SketchArc
DA7- Ground Floor Plan	090418	SketchArc
DA8-Entry Floor Plan	090418	SketchArc
DA9- Roof Plan	090418	SketchArc
DA10- North Elevation	090418	SketchArc
DA11- South Elevation	090418	SketchArc
DA12- Street East Elevation & East Elevation	090418	SketchArc
DA13- West Elevation	090418	SketchArc
DA14- Section A-A	090418	SketchArc
DA15- Section B-B	090418	SketchArc
DA2018/0628		

DA16- Section C-C	090418	SketchArc
DA17- Section D-D	090418	SketchArc
DA18- Section E-E	090418	SketchArc
DA19- Section F-F	090418	SketchArc
DA20- Section G-G	090418	SketchArc
DA21- North Elevation & South Elevation & West2 Elevation & East2 Elevation & Section H-H & Section J-J	090418	SketchArc

Engineering Plans		
Drawing No.	Dated	Prepared By
Geotechnical Investigation	10 April 2018	White Geotechnical group

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Bushfire Hazard Assessment Report	23 February 2018	Building Code & Bushfire Hazard Solutions
Peake Arboiculture	19/02/2018	Peake Arboriculture
Terrestrial Biodiversity Report	March 2018	GIS Environmental Consultants

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
Site Plans and Open Space Calculations	18/01/18	Serene Landscapes

Waste Management Plan		
Drawing No.	Dated	Prepared By
Waste Management Plan	25 October 2018	Vaughan Milligan

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

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

2. Prescribed conditions (Demolition):

(a) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (i) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (ii) stating that unauthorised entry to the work site is prohibited.

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

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

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

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

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

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

Reason: Legislative Requirement (DACPLB09)

3. **Prescribed Conditions**

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

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

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

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

Reason: Legislative Requirement (DACPLB09)

4. **General requirements (Demolition):**

(a) Unless authorised by Council:

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission a Notice of Commencement to Council, a copy of the Development Consent is to remain onsite at all times until completion of demolition works. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) The applicant shall bear the cost of all works that occur on Council's property.
- (f) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (g) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (h) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

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

5. General Requirements

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the

Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

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

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

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

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

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

- (i) Swimming Pools Act 1992

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

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

FEES / CHARGES / CONTRIBUTIONS

6. **Security Bond**

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

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

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

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

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

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

7. **On-site Stormwater Disposal Compliance**

Certification of Drainage plans detailing the provision of On-site Stormwater Disposal in accordance with Northern Beaches Council's MANLY SPECIFICATION FOR ON-SITE

STORMWATER MANAGEMENT 2003 and the concept drawing by NB Consulting Engineers, Job number 171256 dated 29/03/2018. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

8. **Vehicle Crossings Application**

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

Reason: To facilitate suitable vehicular access to private property

9. **The Floor Level of Carport**

The floor level of the proposed carport shall be at least RL 26.65. 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

10. **Waste Management Plan**

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

11. **Water Proofing and Drainage Details.**
(2LD01)

Details must be submitted to the Certifying Authority prior to issue of the Construction Certificate indicating the proposed method of water proofing and drainage of the concrete slabs over which landscaping is being provided.

Reason: To ensure the appropriate type of water proofing is carried out and descriptive information about drainage is provided and drainage is adequately control .

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

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

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

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

13. **Height of Walls/Steps – Bandicoot Habitat**

The height of any new retaining walls or steps of new external stairways must not exceed 200mm (or lower in accordance with BCA standards). Where this cannot be achieved, a slope is to be provided in association with the retaining walls and/or stairs to permit Long-nosed Bandicoot access.

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

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

14. **Erosion and Sediment Control Plan**

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

- Site Boundaries and contours
- Approximate location of trees and other vegetation, showing items for removal or retention (consistent with any other plans attached to the application)
- Location of site access, proposed roads and other impervious areas (e.g. parking areas and site facilities);
- Existing and proposed drainage patterns with stormwater discharge points
- Locations and methods of all erosion and sediment controls;
- North point and scale.

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

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

15. **No Bright Lighting – Bandicoot Habitat**

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

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

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

16. **Access to Undercroft Areas – Bandicoot Habitat**

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

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

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

the site.

17. **Preparation of CEMP – Manly LEP Clause 6.5**

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

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

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

18. **Stormwater Management**

Water quality is not to be reduced from pre-development conditions. The stormwater management plan is to be updated to demonstrate that there is no increase in stormwater pollutant loads arising from the approved development. Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to issue of the Construction Certificate.

Reason: To ensure that the generation of additional stormwater discharge from the site due to the increase in impervious area does not adversely impact the marine ecosystem within the Cabbage Tree Bay Aquatic Reserve

19. **Provision of Landscape Working Drawings**

The submitted plans are to be amended in accordance with the following:

- a) Deletion of the proposed outbuilding and associated services and structures;
- b) The footprint of the deleted outbuilding replaced with soft open space incorporating turf and/or garden beds with low clumping species consistent with Section 3.3.1.a)iv) of the Manly DCP 2013;
- c) Planting schedule amended accordingly and identifying the stratum, species/common names, species quantities, pot sizes and staking details of proposed plantings;
- d) The proposed finished treatment of garden areas, including soil depth and retaining walls and the location of underground services.

Reason: To achieve greater consistency with the objectives of Manly LEP Clause 6.5 (Terrestrial Biodiversity)

20. **Access Spaces – Bandicoot Habitat**

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

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

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

21. **Deletion of outbuilding**

The proposed outbuilding is to be deleted from the consent and replaced with landscaped area

and native species of vegetation. Details are to be provided prior to the issue of a Construction Certificate.

Reason: To ensure consistency with the objectives of the zone, objectives of open space under the Manly DCP, objectives for Landscape design under the Manly DCP and to provide an acceptable floor space ratio variation. (DACPLCPCC1)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

22. **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 {SELECT ONE DEPENDING ON PROJECT SIZE \$10 million \$20 million} in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Warringah Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

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

23. **Tree Protection Measures** (4LD04)

The following precautions must be taken when working near trees to be retained, inclusive of tree within adjoining properties:

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

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

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

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

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

25. **Site Induction Required**

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

every worker and the site manager.

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

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

26. **Fauna Protection Fencing**

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

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

27. **Ecologist to Induct Site Manager**

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

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

28. **Stormwater Connection**

Where connection to Council's nearest stormwater drainage system is required, the applicant shall connect the pipeline in accordance with Council's specification for engineering works and shall reconstruct all affected kerb and gutter, bitumen reinstatements, adjust all vehicular crossings for paths, grass verges and household stormwater connections to suit the kerb and gutter levels. All works shall be undertaken at the applicant's cost, and upon completion certified by an appropriately qualified and practicing Civil Engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure compliance of drainage works with Council's specification for engineering works.

29. **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. 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

30. **Vehicle Crossings**

The provision of a vehicle crossing 4 metres wide at kerb and 5 metres wide at boundary in accordance with Northern Beaches Council Drawing No A4-3330/5 EL 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

31. **Maintenance of Road Reserve**

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

Reason: Public Safety.

32. **Maintenance of Sediment**

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

Reason: To ensure sediment controls are effective

33. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

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

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

34. **Construction Hours – Manly LEP Clause 6.5**

Construction hours are to be adhered to, with no construction vehicles or heavy machinery used outside the hours of 7:00am and 5:00pm.

Reason: Noise and vibration can disturb local native fauna (including threatened species) and prevent access to their natural habitats.

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

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

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

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

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

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

37. **Pollution Control**

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

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

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

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

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

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

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

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

40. **Pollution Control**

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

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

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

41. **Stormwater Disposal**

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

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

42. **Landscape Completion**
(5LD01)

A qualified Landscape Consultant is to submit a Certificate of Practical Completion to the Certifying Authority prior to the issue of the Occupation Certificate, stating the work has been carried out in accordance with the approved Landscape Drawing L-01 and set 1-10 submitted by Serenescapes: dated 18/1/18

Additionally the drainage for the fire pit located at rear western boundary shall wholly on site. No fire pit drainage shall be dispersed upon public reserve.

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

43. **Required Tree Planting**
(2LD03)

Details are to be provided of the existing or proposed native trees for the site which are typically expected to reach a height at maturity of 10 metres, to bring the proposal into compliance with Figure 37 of the Manly Development Control Plan 2013. A list of appropriate native trees for the Manly area may be obtained at Council's Customer Service desk and the Manly Council website. Details of new planting are to include appropriate siting and pot size (minimum of 25 litres) in accordance with section 2.1.3 of the Manly Development Control Plan 2013, and schedule 4, Part B, Native Tree Selection. Details are to be submitted with the Construction Certificate to the satisfaction of the Council/Accredited Certifier. The site has an area of 973.77m² and such requires four trees.

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

44. **Practical Completion of Landscape Works**

A landscape practical completion report is to be prepared by the consultant landscape architect/designer and submitted to the Principal Certifying Authority with the Occupation Certificate application. This report is to certify that all landscape works have been completed in accordance with the landscape working drawings and specifications.

Reason: To ensure landscaping is adequate and consistent with approved plans.

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

45. **No Planting Environmental Weeds**

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

Reason: Weed management.

46. **Maintain Fauna Access and Landscaping Provisions – Manly LEP Clause 6.5**

All fauna access/movement and landscaping provisions specified in these conditions of consent are to be implemented and maintained for the life of the development.

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


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

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

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






























ATTACHMENT A














Notification Plan	Title	Date
 2018/248295	Plan - Notification	20/04/2018

ATTACHMENT B

Notification Document	Title	Date
 2018/252175	Notification Map	23/04/2018

ATTACHMENT C

Reference Number	Document	Date
 2018/248303	Plans - Survey	12/10/2016
 2018/248284	Report - Bushfire Assessment	05/03/2018
 2018/248283	Report - Arborist	12/03/2018
 2018/248287	Report - Terrestrial Biodiversity	23/03/2018
 2018/248310	Plans - Stormwater	03/04/2018
 2018/248288	Report - Waste Management Plan	07/04/2018
 2018/248274	Flythrough - Proposed	10/04/2018
 2018/248272	Flythrough - Existing	10/04/2018
 2018/248306	Plans - Certification of Shadow Diagrams and Plans	10/04/2018
 2018/248270	Cost Summary Report	10/04/2018
 2018/248281	Report - BASIX Certificate	11/04/2018
 2018/248285	Report - Geotechnical	11/04/2018
 2018/248279	Report - Statement of Environmental Effects	18/04/2018
 DA2018/0628	8 Bower Street MANLY NSW 2095 - Development Application - Alterations and Additions	19/04/2018
 2018/248295	Plan - Notification	20/04/2018
 2018/248305	Plans - Landscape	20/04/2018
 2018/248316	Plans - Master Set - Existing	20/04/2018
 2018/248317	Plans - Master Set	20/04/2018
 2018/248311	Plans - External	20/04/2018
 2018/248315	Plans - Internal	20/04/2018
 2018/248266	Development Application Form	20/04/2018
 2018/248267	Applicant Details	20/04/2018
 2018/248268	Owner's Consent	20/04/2018
 2018/248261	DA Acknowledgement Letter - Gregory Andrew Unsworth	20/04/2018
 2018/254211	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2018/0628 - 8 Bower Street MANLY NSW 2095-PR	23/04/2018
 2018/251941	ARP Notification Map	23/04/2018
 2018/251942	DA Acknowledgement Letter (not integrated) - Gregory Andrew Unsworth	23/04/2018
 2018/252084	Notification Letter - 6	23/04/2018

	2018/252175	Notification Map	23/04/2018
	2018/260603	Heritage Referral Response - DA2018/0628 - 8 Bower Street, Manly	27/04/2018
	2018/266069	Building Assessment Referral Response	01/05/2018
	2018/309240	Landscape Referral Response	22/05/2018
	2018/325121	Submission - Chipchase Planning on behalf of Ryan	28/05/2018
	2018/331661	Submission Acknowledgement Letter - Max Chipchase - SA2018/325121	31/05/2018
	2018/369635	RE: Letter of Objection to DA2018/0628 - 8 Bower Street, Manly	14/06/2018
	2018/371540	Engineering Referral Response	19/06/2018
	2018/409156	Natural Environment Referral Response - Biodiversity	05/07/2018
	2018/562569	8 Bower - Removal of secondary dwelling	13/07/2018
	2018/573910	RE: DA2018/0260- 8 Bower Street, Manly. Special Height Provisions Clause 4.6 application	03/09/2018
	2018/568214	Natural Environment Referral Response - Biodiversity	03/09/2018
	2018/606943	Working plans	19/09/2018

PANEL PLANS

No plans titled 'DDP Panel Plans' found in TRIM.