



northern  
beaches  
council

## Delegated Authority Report

2017/544439

<b>DA #</b>	DA171/2017
<b>Site Address</b>	11-17A Manly Road, Seaforth
<b>Proposal</b>	Construction of an access driveway fronting 11 Manly Road and 2A Old Sydney Road Seaforth
<b>Officer</b>	Claire Ryan

### **SUMMARY:**

<b><u>Application Lodged:</u></b>	7 August 2017
<b><u>Applicant:</u></b>	Mario Sanzari
<b><u>Owner:</u></b>	Gary and Priscilla Lung and Northern Beaches Council
<b><u>Estimated Cost:</u></b>	\$200,000
<b><u>Zoning:</u></b>	MLEP 2013 – R2 Low Density Residential
<b><u>Heritage:</u></b>	N/A
<b><u>NSW LEC:</u></b>	N/A
<b><u>Notification:</u></b>	9-25 August 2017
<b><u>Submissions received:</u></b>	7
<b><u>Site Inspected:</u></b>	21 November 2017
<b><u>LEP (4.6) Variations proposed:</u></b>	Nil
<b><u>DCP Variations proposed:</u></b>	Nil
<b><u>Recommendation:</u></b>	Approval

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



The subject property is commonly known as 11-17A Manly Road, Seaforth and legally known as Lot 10 in DP 582777, Lots 7 and 8 in DP 19832, and Lots 1 and 2 in DP 865511. The site is located on the northern side of Manly Road. The properties are irregular in shape and have a collective frontage of approximately 71m to Manly Road. The properties each currently contain a one- or two-storey detached and semi-detached dwelling with vehicular access via an existing driveway from Manly Road to existing garages or hardstand area. The properties slope approximately 4m from north to south. The surrounding area includes one- and two-storey detached and semi-detached dwellings.

### **Property Burdens and Constraints**

The properties contain the following easements:

- Easements for drainage along the eastern and western boundaries of No. 13 Manly Road
- Easement for drainage along the western boundary of No. 15 Manly Road
- Easement for right of footway/service along the northern boundary of No. 17 Manly Road
- Easement for drainage in the south-eastern corner of No. 17 Manly Road
- Easement for right of way across Nos. 17 and 17A Manly Road.
- Easements for telecommunications and electricity across No. 17A Manly Road

However, these easements will not preclude the proposed development.

### **Site History/Background**

Recent relevant applications on site include:

- DA103/2011 (13 Manly Road): Alterations and additions to an existing dwelling including front addition of double garage to lower ground floor, new lounge room to ground floor, front and rear addition to first floor with terrace. Approved by the former Development Assessment Unit on 6 September 2011.

### **Description of proposed development**

The proposal seeks consent for the demolition of the existing vehicular driveway and pedestrian stairs connecting to Manly Road, and construction of new pedestrian stairs connecting to Manly Road, and a driveway connecting to Old Sydney Road.

### **Internal Referrals**

#### **Engineering / Driveway Comments**

Council's Engineer has commented on the proposal as follows:

*"The application proposed to build a shared driveway on road reserve. The application has been assessed and is considered to be unsatisfactory. The below additional information must be provided:*

- a) The detailed sections of gradients and levels of the proposed driveway must be provided. The proposed design shall be in accordance with the current Council's specification and AS 2890.1. At least 3 detailed longitudinal sections must be included.*
- b) An appropriate drainage system for the driveway shall be provided*
- c) An geo-technical investigation and report must be submitted to ensure the existing rocks formation on road reserve is capable for the proposed development,*
- d) The submitted RTA letter was issued in 1996. However, the updated RMS's assessment in regard to the future plan on Manly Road shall be submitted.*
- e) Letters from the utilities service providers confirming that satisfactory arrangements can be made for the provision of underground services for the proposed development.*

*Furthermore, the proposed development will has significant impacts on Council's stormwater drainage asset (Asset No. SPI41985, SPI41984 and 24921) and the footpath between Old Sydney Road and Manly Road. The application shall be referred to Council's Stormwater & Floodplain Engineering team and Transport and Civil infrastructure Assets team for assessments.*

*Development Engineer cannot provide further assessment before receiving the above information."*

### **Assessing Officer's Comments:**

The Applicant provided the requested detailed driveway sections and geotechnical investigation to the satisfaction of the Engineer. The proposal was referred to the RMS on 28 September 2017. The RMS granted concurrence in relation to the application, subject to the application of recommended conditions of consent. The matters relating to drainage and utilities services have been dealt with via deferred commencement conditions. Consequently, Council's Engineer is satisfied with the proposal, subject to recommended conditions.

### **Building Comments**

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

### **Landscaping Comments**

Council's Landscape Officer has commented on the proposal raising concerns with the visual impact of the proposed works on the streetscape and recommended the following additional information be provided:

- An amended design reducing the visual impact of the proposal;
- An Arboricultural Impact Assessment regarding the impact of the proposal upon existing trees within No.11 Manly Road; and
- A Landscape Plan proposal for treatment to the undercroft of the proposed driveway.

### Assessing Officer's Comment:

The Assessing Officer has addressed streetscape in the section of this report relating to Part 3 General Principles of Development of the Manly DCP 2013. It is not considered that an amended design is required in relation to streetscape. A suitable Arborist Report and a suitable Landscape Plan are required to be submitted to the satisfaction of Council via deferred commencement conditions.

### **Heritage Comments**

Council's Heritage Officer raised no objections to the proposal.'

### **Waste Comments**

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

### **Traffic Comments**

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

### **Transport and Civil Infrastructure Assets Comments**

Council's Manager, Transport & Civil Infrastructure Assets raised no objections to the proposal, subject to the imposition of recommended deferred commencement conditions.

### **Stormwater & Floodplain Engineering**

Council's Team Leader, Stormwater Operations & Planning raised no objections to the proposal, subject to the imposition of recommended deferred commencement conditions.

### External Referrals

#### **Rural Fire Service**

The proposal was referred to the Rural Fire Service. The following comments have been received:

*"I refer to your letter dated 14 September 2017 seeking advice regarding bush fire protection for the above Land Use Application in accordance with Section 79BA of the 'Environmental Planning and Assessment Act 1979'. The Service has reviewed the plans and documents received for the proposal and subsequently raise no concerns or issues in relation to bush fire"*

#### **Roads and Maritime Services (RMS)**

The proposal was referred to the RMS on 28 September 2017. The RMS granted concurrence in relation to the application, subject to the application of recommended conditions of consent.

#### **Ausgrid**

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.

## **Planning Comments**

### **Environmental Planning & Assessment Act 1979 – Section 4.15 (1)**

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

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

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

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

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

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

The subject site is located in Zone R2 Low Density Residential under the Manly LEP 2013. The proposed development is considered permissible within the zone with consent. An assessment of the proposal against the objectives of the Zone is included below:

#### **Zone R2 Low Density Residential**

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

- *To provide for the housing needs of the community within a low density residential environment.*

The proposed development retains the residential use of the relevant sites. The proposed new driveway and stairs support the relevant dwellings and provide safer vehicular and pedestrian access.

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

Not applicable. The proposed development retains the residential use of the relevant sites.

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

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

4.	Principal Development Standards	Requirement	Proposed	Complies Yes/No	Comments
4.3	Height of buildings	8.5m	Up to 5.5m	Yes	-

### **Part 5 Miscellaneous Provisions**

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

## Part 6 Local Provisions

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

6.	Local Provisions	Applies	Complies	Comment
6.1	Acid Sulfate Soils	Yes	Yes	The subject site is classified as Class 5 Acid Sulfate Soils. The proposed development is consistent with the objectives and provisions of Clause 6.1 of the Manly LEP 2013.
6.2	Earthworks	Yes	Yes	The proposed development is consistent with the objectives and provisions of Clause 6.2 of the Manly LEP 2013.
6.4	Stormwater Management	Yes	Yes	The proposed development is consistent with the objectives and provisions of Clause 6.4 of the Manly LEP 2013.
6.9	Foreshore Scenic Protection Area	Yes	Yes	The proposed development is consistent with the objectives and provisions of Clause 6.9 of the Manly LEP 2013.

***Section 4.15 (1)(a)(ii) - any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved), and***

There is no applicable Draft Planning Instrument.

***Section 4.15 (1)(a)(iii) - any development control plan, and***

### Manly Development Control Plan 2013

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

## Part 3 General Principles of Development

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

**Comment:**

**3.1 Streetscapes and Townscapes**

**Streetscape**

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

The proposed development includes a new driveway within the road reserve servicing Nos. 11-17A Manly Road, and pedestrian stairs. While the development is prominent in the street frontage, the proposal demonstrates an improvement on the visual appearance of the existing driveway structure, which is in need of replacement. The proposed walls and concrete balustrades are required in order to provide a safe raised vehicular access way, given the context of the site adjacent to a busy main road. The visual appearance of the structure is consistent with the existing streetscape, which consists of garages and high walls along the street frontage.

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

The proposed development replaces an existing driveway and set of stairs in the road reserve. While there are no other comparable examples of such raised driveways in the locality, the proposed development is not inappropriate in context of the site. As above, the visual appearance of the structure is consistent with the existing streetscape, which consists of garages and walls along the street frontage.

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

Landscaped alternatives are not appropriate in the context of the site, given the requirement for safe vehicular movements.

**3.4.1 Sunlight Access and Overshadowing**

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

The proposed development is set to the south of the nearest dwellings. As such, the shadow falls to Manly Road, and does not impact upon residential properties.

*Objective 2) To allow adequate sunlight to penetrate:*

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

As above in relation to Objective 1.

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

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

As above in relation to Objective 1.

**3.4.2 Privacy and Security**

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

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

The proposed development is for the replacement of an existing driveway and stairs. As the proposed development is for vehicular and pedestrian access only, the proposed development is not anticipated to result in minimised privacy for nearby dwellings.

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

The proposed development does not result in privacy impacts, nor does it impact upon access to light and air, or outlooks and views.

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

The proposed development, being a replacement of an existing driveway and stairs results in the same awareness of neighbourhood security as the existing scenario.

### **3.4.3 Maintenance of Views**

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

The proposed development is set at a lower level to the existing dwellings along Manly Road, and therefore does not impact on 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).*

As above, the proposed development is set at a lower level to the existing dwellings along Manly Road, and therefore does not impact upon views to or from private and public spaces.

*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.*

As above, the proposed development is set at a lower level to the existing dwellings along Manly Road, and therefore does not result in view creep.

## **Part 4 - Development Controls**

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

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

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

### **Comment:**

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

**Section 4.15 (1)(a)(iia)- any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and**

No planning agreement has been entered into in relation to the proposed development.

### **Section 4.15 (1)(a) (iv) - the regulations**

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

**Section 4.15 (1)(a)(v) - any coastal zone management plan (within the meaning of the Coastal Protection Act 1979)**

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

**Section 4.15 (1)(b) - the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

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

**Section 4.15 (1)(c) - the suitability of the site for the development,**

The proposed development is suitable for the site.

**Section 4.15 (1)(d) - any submissions made in accordance with this Act or the regulations**

The application was notified to nearby and adjoining property owners in accordance with Section 2.3 of Council's Development Control Plan 2013 with seven submissions received from the following objectors raising the following concerns:

Submission and Address	Main Issues raised in the submission
1. R. Bullock & A. Mentis 7 Old Sydney Road, Seaforth	<ul style="list-style-type: none"><li>Increased traffic and safety concerns on Old Sydney Road, which has no footpath and incomplete gutters.</li><li>Increased noise from increased traffic.</li><li>The proposed driveway reduces access to the nearby bus stop and increases danger.</li><li>Access for trucks (for construction) via Old Sydney Road will be difficult.</li><li>Parking on Old Sydney Road is already insufficient.</li><li>Owners at 2A Old Sydney Road use part of their front yard.</li></ul>
2. Confidential	<ul style="list-style-type: none"><li>Unreasonable visual impact of the proposed works.</li><li>Traffic and safety concerns as vehicles and waste services reverse out of the driveway.</li><li>Loss of privacy from additional traffic.</li><li>Incorrect use of public land as it will increase land value for 11-17A Manly Road, but will cost taxpayers for the maintenance.</li></ul>
3. Confidential	<ul style="list-style-type: none"><li>Adverse impact on land valuation due to concrete pillars and potential for graffiti and undesirable behaviour.</li><li>Owners of 11-17A purchased knowing access was via Manly Road.</li><li>Traffic and safety concerns as vehicles and waste services reverse out of the driveway.</li><li>Unreasonable visual impact of the proposed works.</li><li>Loss of privacy from additional traffic.</li><li>Incorrect use of public land as it will increase land value for 11-17A Manly Road, but will cost taxpayers for the maintenance.</li></ul>
4. J. Fennel 21 Edgecliffe Esplanade, Seaforth	<ul style="list-style-type: none"><li>Pedestrian access to the nearby bus stop on Manly Road is proposed to be shared with a driveway, with additional stairs, likely steeper than Australian standards allow. Who will be responsible for accidents on this land?</li><li>What is the impact on No. 2A Old Sydney Road? It appears a brick wall is being constructed in front of the property.</li></ul>



5. S. Ghoreyshi & J. Clayton, 2 Old Sydney Road, Seaforth	<ul style="list-style-type: none"> <li>• The consultation period is too short.</li> <li>• Unreasonable visual impact of the proposed works, including a wall in front of No. 2A Old Sydney Road.</li> <li>• Traffic and safety concerns as vehicles and waste services reverse out of the driveway.</li> <li>• Loss of privacy and quiet enjoyment from additional traffic.</li> <li>• Incorrect use of public land as it will increase land value for 11-17A Manly Road, but will cost taxpayers for the maintenance.</li> </ul>
6. K. & B. Cook 5 Old Sydney Road, Seaforth	<ul style="list-style-type: none"> <li>• Pedestrian access to the nearby bus stop on Manly Road is proposed to be shared with a driveway.</li> <li>• Traffic and safety concerns as vehicles and waste services access the driveway.</li> <li>• Decreased property value.</li> </ul>
7. Petition	<ul style="list-style-type: none"> <li>• Unreasonable visual impact of the proposed works.</li> <li>• Traffic and safety concerns as vehicles and waste services reverse out of the driveway.</li> <li>• Incorrect use of public land as it will increase land value for 11-17A Manly Road, but will cost taxpayers for the maintenance.</li> </ul>

**Comment:**

Traffic – Increase in Car Movements, Safety, Noise, Reversing Vehicles

The application has been reviewed by Council's Traffic Engineer, Development Engineer and the RMS who raise no objection to the proposal, subject to conditions consent. While a small number of additional cars are proposed to use Old Sydney Road, the increase in traffic movements is not anticipated to result in unreasonable impacts in relation to congestion, safety or noise. The purpose of the new driveway is to eliminate the current need to reverse onto Manly Road. The driveway is of sufficient dimensions to allow vehicles to enter and exit the subject properties in a forward direction.

Pedestrian Access to the Bus Stop

The application has been reviewed by Council's Traffic Engineer and Development Engineer, who raise no objection to the proposal, subject to conditions consent. The alteration to traffic movements is not anticipated to result in pedestrian safety concerns. However, a condition of deferred commencement consent has been applied requiring pedestrian access to Manly Road to be separate to vehicular movements on the driveway. In relation to the slope of the stairs, as per conditions of consent, the proposed development is required to comply with all relevant Australian Standards.

Construction Truck Access

A condition of consent has been applied requiring a detailed Construction Traffic Management Plan (CTMP) for the proposed development to be prepared prior to the issue of the Construction Certificate. The CTMP will address the overall management of the site and nearby roads (including Old Sydney Road).

Parking on Old Sydney Road

The proposed development results in an additional driveway crossover in the bulb of the cul-de-sac at Old Sydney Road, which results in the loss of one on-street parking space. There is no increase to density to the subject properties and therefore no additional impact on parking anticipated by the development. Visitors to the subject properties currently rely on Old Sydney Road for parking. Further, the application has been reviewed by Council's Traffic Engineer, who raises no objection to the proposal, subject to conditions consent.

#### Impact on No. 2A Old Sydney Road

The proposed development does not impact on privately owned land at No. 2A Old Sydney Road.

#### Visual Impact

The visual impact of the proposed development is acceptable for the reasons detailed in the section of this report relating to Part 3 General Principles of Development of the Manly DCP 2013.

#### Loss of Privacy / Quiet Enjoyment

The proposed development is for the replacement of a driveway and stairs for vehicular and pedestrian access only. As such, the proposed development is not anticipated to result in minimised privacy for nearby dwellings. The small increase in traffic movements is not anticipated to result in unreasonable impacts on quiet enjoyment of properties along Old Sydney Road.

#### Use of Public Land / Property Value

Property value is not a planning matter for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*. However, as per the recommended conditions of consent, a Deed of Agreement is to be registered against each property as a Positive Covenant, with terms acceptable to Council for the ongoing responsibility for maintenance, operation, repairs and if necessary in the future, replacement or removal. This ensures no landowners beyond those benefitted by the development (being 11-17A Manly Road) are responsible for any costs associated with the development.

#### Consultation Period

The proposed development was placed on public notification in accordance with legislative requirements from 9 to 25 August 2017. There is no requirement for additional or extended consultation.

#### Responsible Bodies

The land remains in the ownership of the Northern Beaches Council. As above, a Deed of Agreement is to be registered against each property as a Positive Covenant, placing the ongoing responsibility for maintenance, operation, repairs and if necessary in the future, replacement or removal on the benefitting landowners (being 11-17A Manly Road). Any incidents that may occur on site are a civil matter to be negotiated between the relevant parties if and when they occur.

#### **Section 4.15 (1) (e) - the public interest.**

The proposed development is in the public interest

#### **Section 7.11 Contribution towards provision or improvement of amenities or services**

This part of the Act relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. The Act reads as follows:

- (1) *If a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision of or increase the demand for public amenities and public services within the area, the consent authority may grant the development consent subject to a condition requiring:*
- (a) *the dedication of land free of cost, or*
  - (b) *the payment of a monetary contribution,*
- or both.*
- (2) *A condition referred to in subsection (1) may be imposed only to require a reasonable dedication or contribution for the provision, extension or augmentation of the public amenities and public services concerned.'*

**Comments:**

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

**CONCLUSION:**

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

**RECOMMENDATION**

That Development Application No. DA171/2017 for construction of an access driveway fronting 11 Manly Road and 2A Old Sydney Road Seaforth at 11-17A Manly, Road be **Approved** subject to the following conditions:-

**DEFERRED COMMENCEMENT CONDITIONS**

This approval shall not operate until the following documentation/information has been submitted to Council for approval (within 3 years from the date of determination):-

**A. Utilities Services**

Prior to the activation of the consent, written concurrence from all underground utilities service providers to the proposed works is to be submitted to Council for approval. All requirements of these providers must be satisfied and documented on the engineering design / construction plan.

Reason: To ensure that utility services are not compromised by the proposed structure and have been provided as required by this consent.

**B. Lease Agreement**

The applicant is required to meet Council's requirements in establishing an appropriate Lease Agreement, including:

1. A detailed survey plan is to be provided to Council for approval indicating the extent of the position of the driveway and associated structures by reference to the road reserve.
2. The applicant is to pay any associated fees and charges for the establishment of Lease Agreement including all legal fees and advertisement costs.
3. The Lease Agreement is to outline the responsibilities of the property owners benefiting from the driveway structure (being Nos. 11, 13, 15, 17 and 17A Manly Road, Seaforth), including initial start-up works and ongoing maintenance in accordance with the requirements of Council and any other relevant authority.
4. The Lease Agreement must provide that the property owners benefiting from the driveway structure (being Nos. 11, 13, 15, 17 and 17A Manly Road, Seaforth) take out and maintain all necessary insurances, and indemnify Council against any claims or damages arising from the works upon the road reserve in establishing the driveway and associated structures and failure to maintain driveway and associated structures.
5. The Lease Agreement must provide that written notice by the Council can require the property owners to promptly attend to any matters and to carry out works within such time as the Council may require to ensure that the driveway and associated structures are maintained to the requirements of Council or any other relevant authority
6. The Lease Agreement must ensure that current and any future property owners benefiting from the driveway structure (being Nos. 11, 13, 15, 17 and 17A Manly Road, Seaforth) are bound by the lease agreement.

7. A draft Positive Covenant of the proposed structures must be provided to Council for approval. The property owners benefiting from the driveway structure (being Nos. 11, 13, 15, 17 and 17A Manly Road, Seaforth) are to enter into the Covenant in respect of the driveway structure. The Covenant must detail the obligation of the registered proprietors in relation to the annual inspection, maintenance, repair and insurance of the proposed structures and the manner in which costs are to be shared amongst property owners.

Written agreement to the Positive Covenant from Council must be obtained prior to the activation of the Consent.

Reason: Public safety and appropriate property management.

### **C. Council Stormwater Asset**

Plans are to be amended to the satisfaction of Council and must include the following:

- a) Demonstrate compliance with Council's D100 Policy – Drainage easements – construction over drainage easements:
- Accurately locate, confirm dimensions including depth and plot to scale Council's stormwater pipelines and associated infrastructure on the DA plans that outline the proposal. This is to be carried out by a service locating contractor and registered surveyor. Evidence of methodology used for locating stormwater system must be provided to Council.
  - If the applicant proposes to use a CCTV pipeline survey to confirm the location of the pipeline, the survey is to be carried out in accordance with Council's guideline attached.
  - All structures are to be located clear of any Council pipelines, pits, or easements.
  - All required horizontal and vertical clearances are to be met as specified in the Policy.
  - Footings of any structure adjacent to an easement, pit, or pipeline are to be designed in accordance with the Policy.
  - Structural details prepared by a suitably qualified Civil Engineer demonstrating compliance with Council's policy are to be submitted.
- b) The following details are to be submitted, should the applicant propose to modify, relocate, upgrade or remove a public drainage system in accordance with Council's D100 Policy – Drainage easements – construction over drainage easements:
- Hydraulic design & construction plans and an accompanying report detailing the Council drainage system upgrade are to be prepared by a Civil Engineer registered on the NPER. Hydrological and Hydraulic technical guidelines as specified in Council's Engineering Design Specification -AUSPEC ONE are to be used in the preparation of the Hydraulic design plans and report.

Written approval of the above requirements must be obtained from Council prior to the activation of the Consent.

Reason: To protect Council's stormwater assets.

### **D. Arboricultural Impact Assessment**

An Arboricultural Impact Assessment regarding the impact of the proposal upon existing trees within No.11 Manly Road is to be submitted to the satisfaction of Council.

Reason: To protect significant vegetation.

### **E. Landscape Plan**

A Landscape Plan demonstrating suitable treatment to the undercroft of the proposed driveway is to be submitted to the satisfaction of Council.

Reason: To ensure appropriate landscaping.

## F. Pedestrian Access

Plans are to be amended to the satisfaction of Council to include pedestrian access to Manly Road, separate to vehicular movements on the driveway.

Reason: Pedestrian and vehicular safety.

**Note:** The information required by the above deferred commencement conditions are to be submitted within 3 years from the date of this determination.

## 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
DA01 Site Plan	Issue A 25 July 2017	Architecture Azure
DA02 Elevations & Sections	Issue A 25 July 2017	Architecture Azure

Engineering Plans		
Drawing No.	Dated	Prepared By
16039-S1.00 Footing & Driveway Slab Plan & Details	Issue 03 18 December 2017	Azure Project Services

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Investigation and Stability Assessment	8 March 2018	JK Geotechnics

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.

Waste Management Plan		
Drawing No.	Dated	Prepared By
Waste Minimisation & Management Plan & Checklist	Undated	Applicant

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. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
NSW Roads and Maritime Services	2017/382450 RMS Response	6 October 2017

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other Department, Authority or Body's. (DACPLB02)

### **3. 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)

### **4. 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)

## 5. 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)

## 6. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:
  - 7.00am 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)

## **7. Compliance with Standards**

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

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

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

## **8. Compliance with Standards (Demolition)**

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

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

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

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

### 9. Bonds

#### ***Construction, Excavation and Associated Works Bond (Road)***

A Bond of \$500,000 as security against any damage or failure to complete the construction of road pavement/shoulder reconstruction works and driveway as part of this consent. This bond may be refunded upon submission to Council of the registration of the Positive Covenant referred in this consent.

#### ***Construction, Excavation and Associated Works Bond (Drainage)***

A Bond of \$100,000 as security against any damage or failure to complete the construction of stormwater drainage works as part of this consent. This bond may be refunded upon submission to Council of the registration of the Positive Covenant referred in this consent.

#### ***Construction, Excavation and Associated Works Bond (Maintenance for civil works)***

The developer/applicant must lodge with Council a Maintenance Bond of \$50000 for the construction of driveway and retaining structures. The Maintenance Bond will only be refunded on completion of the 6 months Maintenance Period, if work has been completed in accordance with the approved plans and to the satisfaction of Council.

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.

Reason: To ensure adequate protection of Council infrastructure.

### 10. Works on Council Roadway

An Application for Works on Council Roadway, including engineering plans is to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993. The application is to include four (4) copies of Civil Engineering plans for the design of the driveway and associated structures which are to be generally in accordance with the Development Application, RMS's standard and Council's specification for engineering works - AUS-SPEC #1 and/or Council's Minor Works Policy. The plans shall be prepared by a qualified structural and civil engineer. The design must include the following information:

- 1) The detailed structural design of the driveway and the associated supporting structures.
- 2) The detailed structural design of the retaining walls.
- 3) The detailed design of driveway in comply with Australian Standard: Parking facilities part 1: off- street car parking AS 2890.1.
- 4) The detailed design of drainage system in accordance with Council's stormwater specification.
- 5) The detailed design of footpath in accordance with Council's Specification.
- 6) All public and private utility services are to be located on the plan and cross-section plan. All requirements of these providers must be satisfied and documented on the engineering design/ construction plan.
- 7) The corrosion protection must be applied to the structures.
- 8) Construction management plan.
- 9) Reinstate the existing footpath into the grass.
- 10) Reinstate the existing driveway and crossing on Manly Road in accordance with RMS's standard and approval.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges. An approval is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To provide public and private safety.

### **11. Shoring of Adjoining Property**

Should the proposal require shoring to support an adjoining property or Council land, owner's consent for the encroachment onto the affected property owner shall be provided with the engineering drawings. Council approval is required if temporary rock anchors are to be used within Council land.

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

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

### **12. Pre-Construction Stormwater Assets Dilapidation Report Survey**

A pre-construction/demolition Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset, to record the existing condition of the asset prior to the commencement of works. Council's Guidelines are available at:

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2.pdf>

The pre-construction / demolition dilapidation report must be submitted to Council for approval and the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

### **13. Erosion and Sediment Management Plan**

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

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

### **14. Construction Traffic Management Plan**

A detailed Construction Traffic Management Plan (CTMP) for the proposed development is to be prepared prior to the issue of the Construction Certificate. The CTMP will address the overall management of the site and nearby roads (including Old Sydney Road) during the construction process, including truck delivery routes, any traffic control arrangements, anticipated truck numbers accessing the site during demolition, excavation and construction stages, and parking arrangements for worker vehicles throughout the project.

Reason: To ensure equitable access to users of the locality and to manage traffic as a result of the construction of the proposed development.

### **15. Trust Fund Deposit**

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

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

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

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

#### **16. Excavation Shoring**

Where any shoring for excavation is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings and specifications certifying the shoring will be adequate for their intended purpose and must be submitted to the Council/Accredited Certifier for approval with the Construction Certificate. The documentation prepared and certified by an appropriately qualified and practicing structural engineer is to show all details, including the extent of encroachment and the method of removal and de-stressing of shoring elements. A copy of this documentation must be provided to the Council for record purposes at the time of Construction Certificate application.

Reason: To ensure the protection of existing public infrastructure and adjoining properties.

#### **17. Engineering Drawings**

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

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

#### **18. Geotechnical Survey – Stability**

A Geotechnical Survey, on the stability of the subject site, is to be prepared by a suitably qualified geotechnical engineer in accordance with the guidelines contained in the current Manly Development Control Plan 2013. All recommendations of the report are to be complied with during the construction process. The report is to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To ensure structural integrity of the works maintained.

#### **19. Geotechnical Survey – Excavation**

A Geotechnical Survey is to be prepared by a suitably qualified geotechnical engineer for the proposed excavation. The requirements for a Geotechnical Survey are contained within the Dictionary of the Manly Development Control Plan 2013. All recommendations of the survey are to be complied with during the construction process. The survey is to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To ensure excavation is undertaken in an appropriate manner.

## **20. Works on Existing Roads**

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

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

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

Reason: To facilitate suitable vehicular access to private sites.

## **21. Soil Surface and Vegetation Disturbance**

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

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

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

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

## **22. Driveway**

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

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles. (DACTRCPC1)

## **23. Driveway Treatment**

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

Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff. (DACTRCPC2)

#### **24. Waste Management Plan**

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

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

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

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

#### **25. Commencement of Works**

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

Reason: To ensure compliance with statutory provisions.

#### **26. Demolition**

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

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

#### **27. Security Fence**

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

Reason: To protect the public interest and safety.

#### **28. Construction of Vehicular Crossing**

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

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

#### **29. Roads Approval**

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

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

### **30. Construction Zone Applications**

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

Applications for a construction zone on a State Road require 28 days notice to Council and RTA State Network Services indicating the location and length. All construction zones require the approval of the Manly Traffic Committee.

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

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

### **31. Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures, and/or public infrastructure from damage using underpinning, shoring, retaining, walls, and support where required.

All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- b) comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: Safety.

### **32. Civil Works Supervision**

All civil works approved in the Construction Certificate are to be supervised by a C7 Accredited Certifier by Building Professionals Board NSW. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

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

### **33. Public Liability Insurance - Works on Public Land**

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

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

### **34. Traffic Control During Road Works**

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

Reason: Public safety.

### **35. Maintenance of Road Reserve**

Public footways and roadways adjacent to the site to Manly Road must be retained and maintained in a safe condition at all times during the course of the work.

Reason: Public Safety.

### **36. Removal of Traffic Mirror**

The existing Traffic Mirror on the Manly Road reserve outside the subject site is to be removed by the relevant authority being Northern Beaches Council.

Reason: To ensure removal of superfluous traffic markers.

### **37. Demolition, Construction and Site Works**

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

- 1) All demolition is to be carried out in accordance with Australian Standard AS 2601-2001.
- 2) Demolition must be carried out by a registered demolition contractor.
- 3) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out.
- 4) No blasting is to be carried out at any time during construction of the building.
- 5) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- 6) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- 7) Any demolition and excess construction materials are to be recycled wherever practicable.
- 8) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- 9) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- 10) All waste must be contained entirely within the site.
- 11) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- 12) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- 13) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept on site as evidence of approved methods of disposal or recycling.
- 14) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
- 15) Public footways and roadways adjacent to the site must be maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
- 16) Building operations such as brick-cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- 17) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.
- 18) Any work must not prohibit or divert any natural overland flow of water.



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

### **38. Footpath Level**

The footpath is to be constructed as per the Council Standards & Specifications. The existing footpath level and grade at the street alignment of the property must be maintained.

Reason: To ensure appropriate access and infrastructure protection.

### **39. Approved Erosion and Sediment Management Plan**

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

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

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

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

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

### **40. Occupation of the Structure**

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

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

### **41. Certification of Structures on Council Roadway and Works as Executed Data**

A C7 Accredited Certifier of Building Professionals Board shall certify that the completed works have been constructed in accordance with this consent and the approved Construction Certificate plans. A Works as Executed plan must be prepared by a registered surveyor prepared and overdrawn in red on a copy of the approved plans are to be provided to Council. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any final Occupation Certificate.

Reason: Safety.

### **42. Utilities Services**

Prior to the issue of the occupation certificate, the written concurrence from all underground utilities service providers to the built works are to be submitted to Council for approval. All requirements of these providers must be satisfied.

Reason: To ensure that services have been provided as required by this consent.

### **43. Certification of Drainage Works and Works as Executed Data**

A suitably qualified Civil Engineer shall certify that the completed works have been constructed in accordance with this consent and the approved Construction Certificate plans. Works as Executed data certified by a registered surveyor prepared in accordance with Council's 'Guideline for preparing Works as Executed data for Council Stormwater Assets' shall be submitted to the Council for approval prior to the issue of the Occupation Certificate. An approval from Council is to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

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

#### **44. Right of Carriageway**

A right of carriageway (under the provisions of Section 88B of the Conveyancing Act) is to be created on the final plan and accompanying 88B instrument to include all vehicular access and manoeuvring areas. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: Council's standards and the statutory requirements of the Conveyancing Act 1919.

#### **45. Post-Construction Dilapidation Survey**

A post-construction Dilapidation Survey of Council's Stormwater Assets is to be prepared by a suitably qualified person in accordance with Council's Guidelines for Preparing a Dilapidation Survey of Council Stormwater Asset in order to determine if the asset has been damaged by the works. Council's Guidelines are available at

<https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/general-information/engineering-specifications/2009084729guidelineforpreparingadilapidationsurveyofcouncilstormwaterassets2.pdf>

The post construction dilapidation report must be submitted to the Council for review and the Principal Certifying Authority prior to the issue of the Occupation Certificate. Any damaged to Council's stormwater infrastructure is to be rectified in accordance with Council's technical specifications prior to the release of the security bond.

Reason: Protection of Council's infrastructure.

#### **46. Positive Covenant of Structures on Public Land**

A Positive Covenant, as approved by Council, is to be created on the property title to ensure the on-going maintenance, repair and insurance together with the cost sharing arrangements of the shared driveway and associated structure. The property owners benefiting from the driveway structure (being Nos. 11, 13, 15, 17 and 17A Manly Road, Seaforth) are to enter into an Instrument with Council in respect of these structures. The Instrument is to be prepared by the owners and accompanied by a survey plan accurately locating these structures. The Instrument is to detail the obligation of the registered proprietors.

Northern Beaches Council shall be nominated in the Instrument as the only party authorised to release, vary or modify the instrument, and endorsed Northern Beaches Council's delegate shall be affixed to these documents, prior to submission to the NSW Land Registry. Evidence of the registration of the Instrument referred to in this condition is to be provided to Council. Details demonstrating compliance are to be submitted to Principle Certifying Authority prior to issue of any final Occupation Certificate.

Reason: To ensure pedestrian and public safety and ensure that structures located on public land for private benefit are maintained to an acceptable standard.

**47. Authorisation of Legal Documentation Required for structures on road reserve**

The original completed Covenant forms from Land Registry Services NSW must be submitted to Council, with a copy of the Works-as-Executed plan and Compliance Certificate issued by an Accredited Certifier in Civil Works. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land.

**48. Registration of Encumbrances for structures on road reserve**

A copy of the certificate of title demonstrating the creation of the Positive Covenant for shared driveway and associated structures is to be submitted for each of the affected properties (being Nos. 11, 13, 15, 17 and 17A Manly Road, Seaforth). Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land.