



northern
beaches
council

Delegated Authority Report

2018/069354

DA No.	DA202/2016
Site Address	44 Bower Street, Manly (Lot 22, DP 8075)
Proposal	Section 96(2) application to modify approved demolitions of existing dwelling and construction of a three storey dwelling.
Officer	Max Duncan

SUMMARY:

Application Lodged:

31 October 2017

Applicant:

David Selden Design

Owner:

Craig Taylor

Estimated Cost:

\$2,022,020.00

Zoning:

MLEP, 2013 – E3 Environmental Management

Heritage:

Not applicable

Notification:

31 October 2017- 16 November 2017

Submissions received:

Nil (0)

Site Inspected:

18 January 2018

LEP (4.6) Variations proposed:

Clause 4.3- Building Height

DCP Variations proposed:

Recommendation:

Approval

Subject Property and surrounding area



Image 1- Subject site and surrounding development

The subject property is commonly known as 44 Bower Street, Manly and legally known as Lot 22 in DP 8075. The site is located on the eastern side of Bower Street. The property is irregular in shape and has a frontage of 15.28m to Bower Street, an average depth of 45.72m and an overall site area of 696.7m². The property currently contains a 2 storey dwelling with vehicular access via an existing driveway from Bower Street. The property slopes from the north-west corner to the south-east corner approximately 25.13m.

The surrounding area includes residential development and two (2) heritage items located at 50-52 Bower Street.

Property Burdens and Constraints

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

Site History/Background

Previous site development:

DA5076/91- Alterations and additions to an existing dwelling house.

DA27/2015- Alterations and additions to an existing dwelling house.

DA222/2015- Alterations and additions to an existing dwelling house.

DA202/2016- Demolition of existing dwelling and construction of a three (3) storey dwelling including front and rear terraces, new swimming pool with deck, new double garage and driveway, landscaping (APPROVED).

DA202/2016- Part 2- (APPROVED)

Description of proposed development

The S96 (2) to DA202/2016 includes:

- Proposed skylight alterations
- Roof alterations.
- Internal alterations.
- Window alterations
- Re-location of approved car stacker.

Internal Referrals

Engineering Comments

Council's Engineer offered no objection to the proposal.

Building Comments

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

Natural Resources Comments

Council's Natural Resources Officer offered no objection to the proposal.

Coastal Management Comments

Coastline Management Officer offered no objection to the proposal.

Planning Comments

Environmental Planning & Assessment Act 1979 – Section 79(C)(1)

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

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

State Environmental Planning Policy 71- Coastal Protection:

The subject property is located within the Coastal Zone area therefore the provisions of this plan apply to this development.

An assessment of the proposal against Clause 2(Aims of Policy), Clause 8 (matters for consideration), Clause 11 (Determination by councils of application for significant coastal development), Clause 12 (Application of Part), Clause 13 (flexible zone provisions), Clause 14 (Public Access), Clause 15 (Effluent disposal), Clause 16 (Stormwater). The proposal is considered to be consistent with the above provisions of the SEPP subject to the recommended conditions of consent.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005:

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

An assessment of the proposal against Clause 2 (aims of the SREP), Clause 14 (nominated planning principles), Clause 21 (relating to biodiversity, ecology and environmental protection), Clause 22 (relating to public access to and use of foreshores and waterways), Clause 23 (relating to maintenance of a working harbour), Clause 25 (relating to foreshore and waterways scenic quality) and Clause 26 (relating to maintenance, protection and enhancement of views) has been undertaken. The proposal is considered to be consistent with the above provisions of the SREP subject to the recommended conditions of consent. Given the scale of the proposed modification and the works proposed referral to the Foreshores and Waterways Planning and Development Advisory Committee not considered necessary.

Manly Local Environmental Plan 2013

The subject site is located in Zone E3 Environmental Management under the Manly LEP 2013. The proposed development is considered permissible within the zone with consent. An assessment of the proposal against the objectives of the Zone is included below: 4 of 30

Under the Manly LEP 2013, the site is:

Zone R1 General Residential

Zone E3 Environmental Management

Objectives of zone

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

The proposed amendments are considered to be low impact in terms of ecological, scientific or aesthetic values.

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

The proposal will not have an adverse effect on those values.

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

The proposed development will have no impact on tree canopies. The minor nature of the proposal means that it would not dominate scenic qualities of the foreshore.

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

The proposed dwelling is located in close vicinity to the foreshore but will have no impact on natural features.

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

The proposal is consistent with the objectives relating to both total and landscaped open space.

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

The proposed works are within the parameters of the building height and floor space ratio development standards.

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	Approved	Proposed	Complies	Comments
4.3	Height of buildings	8.5m	8.5m	8.7m	No	See comments below
4.4	Floor Space Ratio	0.45:1 (313.51m ²)	0.415:1 (289.56m ²)	0.42:1 (293.9m ²)	Yes	Proposal complies with the clause

4.6 Exceptions to development standards

Whilst the modification application will result in a floor space ratio that exceeds the maximum Building Height permitted by Clause 4.3 of the MLEP 2013, the application does not strictly need to address the requirements of Clause 4.6.

This application has been made under Section 96 of the Environmental Planning and Assessment (EP&A) Act 1979, which is a free standing provision which in itself authorises the development to be approved notwithstanding any breach of development standards. Section 96 is subject to its own stand-alone tests (such as substantially the same test and consideration of all relevant s.79C matters) and does not rely upon having a Clause 4.6 variation in order to determine the modification application.

Clause 4.6 regulates whether development consent may be granted, not whether an existing consent may be modified, and therefore does not apply to Section 96 modification applications.

Notwithstanding that Clause 4.6 does not apply to Section 96 applications, the merits of the departure have been assessed below with regards to the objectives of the floor space ratio development standard and the underlying objectives of the R2 Low Density Residential zone.

The following assessment of the variation to Clause 4.4 – Building Height development standard and is assessed taking into consideration the questions established in *Winten Property Group Limited v North Sydney Council* (2001) NSW LEC 46.

Height of Building

The following assessment of the variation to Clause 4.3 – Height of buildings development standard and is assessed taking into consideration the questions established in *Winten Property Group Limited v North Sydney Council (2001) NSW LEC 46*.

Requirement	8.5m
Proposed	8.7m
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	2.3% variation

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 MELP 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 amended roof does not result in any unreasonable impact upon the streetscape. The roof respond to the existing topography on site.

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

Comment: T The bulk and scale of the proposed dwelling is consistent with the floor space ratio development standard, the primary control controlling bulk and scale of development. The roof has been suitably designed to provide reasonable mass and respond to the constraints of the site.

- (c) *to minimise disruption to the following:*

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

Comment: The proposed amendments minimise the disruption to the existing views from adjoining dwellings to Sydney Harbour and associated landscaping features including North head which is considered iconic. See comments relating to *Maintenance of view* in this report.

- (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 proposed works do not give rise to any unreasonable overshadowing to adjoining properties. The proposed works are consistent with the numerical controls under the Manly DCP for sunlight access and overshadowing.

- (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: There is no change proposed to the landscaped/vegetation area to the rear of the subject site.

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 Zone E3 Environmental Management:

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

The proposed amendments are considered to be low impact in terms of ecological, scientific or aesthetic values.

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

The proposal will not have an adverse effect on those values.

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

The proposed development will have no impact on tree canopies. The minor nature of the proposal means that it would not dominate scenic qualities of the foreshore.

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

The proposed dwelling is located in close vicinity to the foreshore but will have no impact on natural features.

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

The proposal is consistent with the objectives relating to both total and landscaped open space.

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

The proposed works are within the parameters of the building height and floor space ratio development standards.

In this regard, given the consistency of the variation to the objectives of the zone and objectives of Clause 4.3 of the Manly LEP, for the variation is considered reasonable

Part 5 Miscellaneous Provisions

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

Part 6 Local Provisions

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

6.	Local Provisions	Applies	Complies	Comments
6.1	Acid Sulphate Soils	Yes	Yes	Proposal complies with the clause.
6.5	Terrestrial Biodiversity	Yes	Yes	Proposal complies with the clause.

6.9	Foreshore Scenic Protection Area	Yes	Yes	Proposal complies with the clause.
6.10	Limited development on foreshore area	Yes	Yes	Proposal complies with the clause.

79C(1)(a)(ii) - any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved), and

There is no applicable Draft Planning Instrument.

79C(1)(a)(iii) - any development control plan, and

Manly Development Control Plan 2013:

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

Part 3 General Principles of Development

Issues	Consistent with controls	Inconsistent with controls
Streetscape	✓	
Heritage – In Vicinity	✓	
Landscaping Design	✓	
Landscape/Tree Preservation	✓	
Sunlight Access and Overshadowing	✓	
Privacy and Security	✓	
Maintenance of Views	✓ (see comments)	

Comment:

3.4.3 Maintenance of Views

The proposal is consistent with the relevant objectives relating to Maintenance of Views in section 3.4 of the Manly DCP, subject to conditions. The relevant objectives in the Manly DCP that relate to Maintenance of Views are as follows:

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

The proposed amendment to the roof will result in an increase to the overall building height (8.7m) to the rear section of the primary dwelling. The proposed impact upon view corridors from adjoining properties would be negligible, with reasonable levels of views to the ocean retained.

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).

The proposal responds appropriately to the available views through the provisions of appropriate view corridors as well as building articulation to ensure highly valued views are retained and the impact on properties in terms of view loss is negligible to negligible

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.

The proposed roof height don't unreasonably contribute to view creep or provide potential for future development that cause view creep/loss.

Part 4 - Development Controls

Site Area:	696.7m ²	Permitted/ Required	DA Approved	Proposed	Complies Yes/No
Roof height		2.5m	1m	1m (increased at rear section)	Yes
East setback side		2.7m	1.1m	1.1m	No, see comments.

Comment:

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

The proposal is non-compliant with the control for side setbacks. An assessment of the proposal against the objectives for setbacks is 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.

The proposed non-compliance is the result of the proposed ground floor door changing to a window. The window is along the approved eastern wall. The proposed amendment will not have any unreasonable impact upon 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.*

The proposed works will retain privacy to adjoining properties. There is no unreasonable overshadowing impact that will result from the proposed works. No view to or from public spaces will be compromised by the proposed development.

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

Flexibility is given in this situation, as there is no unreasonable amenity impacts that will result from the proposed development.

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.*

The proposal is compliant with the numerical control relating to landscaped open space. The proposal complies with the clause, subject to conditions.

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

The subject site is not located in a bushfire asset protection zone.

Given the above it is considered that the relevant setback and building separation objectives outlined in Clause 4.1.4 have been achieved, and is therefore considered acceptable on merit.

Part 5 - Special Character Areas and Sites

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

Comment:

Foreshore Scenic Protection Area

The site is located in the Foreshore Scenic Protection Area. It is considered that the proposal will not have a significant impact on visual aesthetic amenity or views to and from the foreshore. Although the subject site is and adjacent dwelling are in close proximity to the foreshore, there is no unreasonable impact on the existing view to the foreshore to or from the foreshore. As a result, the impact the proposal would have on scenic quality and views is considered negligible.

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

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

79C(1)(a)(iia) - any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and

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

79C(1)(a) (iv) - the regulations

The proposed development has been assessed having regard to the Manly Local Environment Plan 2013 and the Manly Development Control Plan and is considered to be satisfactory.

79C(1)(a)(v) - any coastal zone management plan (within the meaning of the Coastal Protection Act 1979)

There is no applicable Coastal Zone Management Plan.

79C(1) (b) - the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The proposed development as modified by the conditions of consent is not considered to have any detrimental impacts on the natural and built environments and is accordingly recommended for approval.

79C(1) (c) - the suitability of the site for the development,

The proposed development as modified by the conditions of consent is considered to be suitable for the site.

79C(1) (d) - any submissions made in accordance with this Act or the regulations

The application was notified to nearby and adjoining property owners in accordance with Council's Development Control Plan 2013 Section 2.3 with no (0) submissions received.

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

The proposed development as modified by the conditions of consent is not considered to have any adverse impact on the public interest.

S94 Contribution towards provision or improvement of amenities or services

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

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

Comments:

In this case, the proposed development will not require the provision of or increase the demand for public amenities and public services in the area.

Section 96(2) of the Environmental Planning and Assessment Act 1979

(1) Other modifications

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and
- (c) it has notified the application in accordance with:
 - (i) the regulations, if the regulations so require, or
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1) and (1A) do not apply to such a modification.

With regard to the above it is considered that the proposed modifications to the original consent, will result in substantially the same development for which consent was originally granted. The modifications requested were notified in accordance with Council's Manly DCP with no (0) submissions received. All matters relating to the proposed modifications in terms of impact on have been considered. On balance, the proposed modifications are considered to be satisfactory for approval, subject to conditions.

CONCLUSION:

The application has been assessed having regard to Section 79C and Section 96 of the Environmental Planning and Assessment Act 1979, the Manly Local Environmental Plan 2013 and the Manly Development Control Plan 2013 and is considered to be satisfactory for **approval**, subject to conditions.

RECOMMENDATION

That pursuant to Section 96 (2) of the Environmental Planning and Assessment Act 1979, the proposed modification to Development Consent No. 202/2016 for demolition of existing dwelling and construction of a three storey dwelling at 44 Bower Street, Manly be **approved** subject to:

The following Condition No. ANS10 (3MS01) is to be amended as per Section 96(2) Application – Part 3:

ANS10

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

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

GENERAL CONDITIONS

The following Condition No.1 is to be amended as per Section 96(2) Application – Part 3:

1. The development, except where modified by the conditions of this consent, is to be carried out in accordance with the following plans and reference documentation;

Drawings affixed with Council's 'Development Consent' stamp relating to Development Consent No. 202/2016:

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
DA.02B/ Site/ Roof Plan	Revision B/ June 2016	9 November 2016
DA.03B/ Lower Ground Floor Plan	Revision B/ June 2016	9 November 2016
DA.04B/Ground Floor Plan	Revision B/ June 2016	9 November 2016
DA.05B/ First Floor Plan	Revision B/ June 2016	9 November 2016
DA.06B/ North and South Elevation	Revision B/ June 2016	9 November 2016
DA.07B/ East Elevation	Revision B/ June 2016	9 November 2016
DA.08B/ West Elevation	Revision B/ June 2016	9 November 2016
DA.09B/ Section AA	Revision B/ June 2016	9 November 2016
DA.10B/ Section BB	Revision B/ June 2016	9 November 2016
TAY/02/01/ Landscape Plan Front Garden	Revision B/ 26 October 2016	9 November 2016
TAY/02/02/ Landscape Plan Rear Garden	Revision B/ 26 October 2016	9 November 2016

Reference Documentation affixed with Council's stamp relating to Development Consent No. 202/2016:

- Statement of Environmental Effects prepared by aSquare Planning dated November 2016 and received by Council on 9 November 2016.
- BASIX Certificate Number: 766147S dated Tuesday 8 November 2016 and received by Council on 9 November 2016.
- Geotechnical Report prepared by JK Geotechnics dated 21 October 2016 reference number: 29343SMrptrev2 received by Council on the 9 November 2016.
- Heritage Impact Statement prepared by Zoltan Kovacs Architect dated October 2016 and received by Council on the 9 November 2016.

- Terrestrial Biodiversity Impact Assessment prepared by GIS Environmental Consultants dated November 2016 and received by Council on the 9 November 2016.

Except as amended by:

Drawings affixed with Council's 'Development Consent' stamp relating to this Section 96(2) Application – Part 2:

Plan No. / Title	Issue/ Revision & Date	Prepared By
S961.02B/ Site/ Roof Plan	Revision B	David Selden Design
S961.03A/ Lower Ground Floor Plan	Revision A	David Selden Design
S961.04A/ Ground Floor Plan	Revision A	David Selden Design
S961.05A/ First Floor Plan	Revision A	David Selden Design
S961.06A/ North and South Elevation	Revision A	David Selden Design
S961.07A/ East Elevation	Revision A	David Selden Design
S961.08A/ West Elevation	Revision A	David Selden Design
S961.09A/ Section AA	Revision B	David Selden Design
S961.10A/ Section BB	Revision A	David Selden Design

Reference Documentation relating to this Section 96(2) Application – Part 2:

- Geotechnical Report prepared by JK Geotechnics dated 2 August 2017 reference number: 29343SMrpt Rev 3

Except as amended by:

Drawings affixed with Council's 'Development Consent' stamp relating to this Section 96(2) Application – Part 3:

Plan No. / Title	Issue/ Revision & Date	Prepared By
S962.02A/ Site/ Roof Plan	Revision A/ 27 October 2017	David Selden Design
S962.03A/ Lower Ground Floor Plan	Revision A/ 27 October 2017	David Selden Design
S962.04A/ Ground Floor Plan	Revision A/ 27 October 2017	David Selden Design
S962.05A/ First Floor Plan	Revision A/ 27 October 2017	David Selden Design
S962.06A/ North and South Elevation	Revision A/ 27 October 2017	David Selden Design
S962.07A/ East Elevation	Revision A/ 27 October 2017	David Selden Design
S962.08A/ West Elevation	Revision A/ 27 October 2017	David Selden Design
S962.09A/ Section AA	Revision A/ 27 October 2017	David Selden Design
S962.10A/ Section BB	Revision A/ 27 October 2017	David Selden Design

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

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

GENERAL CONDITIONS RELATING TO APPROVAL

1 (1AP04)

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

Reason: To ensure compliance with the approved development.

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

2 (2AP01)

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

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

3 (2CD01)

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

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

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

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

4 (2CD02)

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

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

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

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

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

5 (2CD05)

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

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

6 (2CD08)

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.

7 (2DS01)

A detailed stormwater management plan is to be prepared to fully comply with Council's Specification for On-site Stormwater Management 2003 and Specification for Stormwater Drainage 2003 and must be submitted to Council prior to issue of the Construction Certificate. The stormwater management plan and designs are to be prepared by a suitably qualified engineer with experience in hydrology and hydraulics.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that infrastructure reverting to Council's care and control is of an acceptable standard.

8 (2DS02)

A Stormwater Management Plan (SWMP) in line with Council's stormwater management guidelines and signed off by a practising Chartered Professional Engineer on the National Professional Engineer's Register (NPER) at Engineers Australia is to be submitted to the Council/Accredited Certifier, prior to issue of the Construction Certificate. The SWMP is to include but is not limited to the following:

- Increase in the impervious area (m²)
- Impervious percentage (%) post development
- Demonstration of no-adverse flooding issues to the downstream and upstream properties
- Peak flow rate to street drainage system in a 1:100 Average Recurrence Interval (ARI) flood event
- Connection details and location of the outlet drainage pipe, if applicable.
- If it is an absorption trench zone (Zone 2 as per Storm Water Management guidelines), then the detail calculations along with the soil report to be submitted for review by demonstrating no-adverse drainage issues due to this development.
- Details of the Chartered Engineer including full name, signature and registration number is required.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure public infrastructure in Council's care and control is not overloaded.

9 (2DS07)

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

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

- Council's rainwater tank policy.

Reason: To protect public health and amenity.

10 (2FP02)

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

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

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

Reason: To facilitate suitable vehicular access to private sites.

11 (2FP03)

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

Reason: To ensure structures are contained within the site.

12 (2FR03)

A building in respect of which there is a change of building use must comply with the Category 1 Fire Safety Provisions applicable to the proposed use.

Note: The obligation to comply with the Category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in relation to this development consent. It is recommended you discuss the requirements for achieving compliance with this condition with an Accredited Certifier (Building), who will be able to advise of any action or works which may be required.

Reason: Statutory requirement.

13 (2MS01)

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

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

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

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

14 (2NL02)

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

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

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

15 (2NL04)

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

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

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

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

16 (2PT01)

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

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

17 (2SP01)

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

- 1) The swimming pool is to be surrounded by a child-resistant barrier in accordance with the Swimming Pools Amendment Act 2009 and Regulations 2008 which:
 - separates the swimming pool from any residential building situated on the property and from any place adjoining the property, and

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

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

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

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

18 (2SP02)

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

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

19 (2SP03)

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

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

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

20 (2SP04)

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

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

21 (2SP05)

Spa pools or the like are to be provided with approved-type safety outlet covers in accordance with Australian Standard AS 2610 (Spa Pools), and details of the outlet areas are to be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate.

Reason: To comply with Australian Standards and provide a reasonably level of child safety.

22 (2TC01)

Details of the method of termite protection which will provide whole of building protection, inclusive of structural and non-structural elements must be submitted to the Council / Accredited Certifier prior to issue of the Construction Certificate. Attention is drawn to the provisions of Australian Standard AS 3660.1 - 2000 Termite management – New building work, and to the Manly Code for the Protection of Buildings Against Termite Attack 1996.

Reason: To protect the building from possible termite damage.

23 (2TS02)

Any internal and/or boundary fencing and gates are to be designed to include 'access spaces' suitable for Long-nosed Bandicoots trying to access the property post-construction. These 'access spaces' are to be provided at intervals of no greater than 3m apart and are to be located at the bottom of the fencing/gate, being 300mm long and at least 150mm high and are not to be obstructed. Alternatively the length of the fence is to be raised 150mm off the ground. This condition does not apply to pool fencing.

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

24 (2TS03)

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

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

25 (2TS04)

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

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

26 (2TS05)

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

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

27 (2TS06)

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

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

28 (2TS07)

A site Construction Management Plan (CMP) is to be prepared and is to include a section for Environmental Management. This section, as a minimum, is to outline all measures for the protection of native fauna during the construction phase (including, but not necessarily limited to, those requirements of the conditions of this consent and those measures identified in the ecological report submitted as part of the Development Application).

The CMP is to be provided to the certifying authority prior to the issue of the Construction certificate.

Reason: To ensure that all conditions of consent relating to the protection of native fauna are documented and complied with for the duration of works.

29 (2WM02)

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

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

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

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

30 (3BM01)

The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in accordance with Australian Standard AS 3740. Certification is to be provided to the Principal Certifying Authority from a licensed applicator prior to the fixing of any wall or floor tiles.

Reason: To prevent the penetration of dampness through walls and floors.

31 (3CD01)

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

Reason: To ensure compliance with statutory provisions.

32 (3CD02)

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

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

33 (3CD03)

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

Reason: To protect the public interest and safety.

34 (3CD06)

Roof and framing including provision for tie downs, bracing and fixings are to be designed by a practising structural engineer. The Engineer is to specify appropriate wind category relating to the site terrain, house design and height of the structure, with details being submitted to the Principal Certifying Authority prior to the commencement of framework.

Reason: To ensure structural adequacy.

35 (3FP01)

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

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

36 (3LD01)

All healthy trees and shrubs identified for retention on the submitted landscape drawing are to be suitably marked for protection before any construction works start.

Reason: To ensure the trees conditioned to stay on the site are suitably protected during any construction works.

37 (3PT01)

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

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

38 (3TS01)

Temporary chain wire fencing is to be installed around all work areas (including demolition, storage and construction areas) prior to the commencement of works. Fencing is to be maintained for the duration of the works.

The fencing is to be designed to minimise the possibility of Long-nosed Bandicoots accessing the works areas and sheltering in cavities or voids. A surrounding barrier of minimum 300mm in height is considered sufficient.

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

39 (3TS02)

All workers, including site inspectors and sub-contractors, are to be made aware of the potential presence of Long-nosed Bandicoots through a site induction prior to commencement of works. The site induction is to include information about the conservation significance of this endangered population, their 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 foreman/supervisor. Evidence of the site induction is to be documented and provided to the Principle Certifying Authority.

Reason: To avoid direct physical harm to Long-nosed Bandicoots, it is important that workers are aware of their presence, their conservation significance and the measures in place to protect them.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

40 (4AP02)

A copy of all stamped approved drawings, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Reason: To ensure the form of the development undertaken is in accordance with the determination of Council, public information and to ensure ongoing compliance.

41 (4CD01)

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

- 1) All demolition is to be carried out in accordance with Australian Standard AS 2601-2001.
- 2) Demolition must be carried out by a registered demolition contractor.
- 3) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out.
- 4) No blasting is to be carried out at any time during construction of the building.
- 5) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- 6) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

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

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

42 (4CD02)

In order to maintain the amenity of adjoining properties, audible site works must be restricted to between 7.00am and 6.00pm, Monday to Friday and 7.00am to 1.00pm Saturday (including works undertaken by external contractors). No site works can be undertaken on Sundays or public holidays.

Unless otherwise approved within a Construction Traffic Management Plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Reason: To prevent disturbance to the surrounding community.

43 (4CD03)

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.

Reason: To maintain sanitary conditions on building sites.

44 (4CD05)

Retaining walls being constructed in conjunction with excavations must be in accordance with structural engineer's details. Certification by a suitably qualified structural engineer that the constructed works comply with the structural detail must be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: To ensure the structural adequacy of the retaining walls.

45 (4CD06)

All construction works must be strictly in accordance with the Reduced Levels (RLs) as shown on the approved drawings. A copy of approved drawings should be kept at site. Certification from a registered surveyor is to be submitted to the Principal Certifying Authority during construction to confirm floor and finished ridge levels.

Reason: To ensure compliance with the consent.

46 (4CD07)

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

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

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

The owner or occupier of the premises must consult an appropriately qualified and Australian Institute of Occupational Hygienists registered professional to undertake an assessment of the site to determine the potential for contamination. The owner or occupier must develop a management plan and be issued with Clearance Certificate before the commencement of any work.

Reason: To ensure the health of site workers and the public.

47 (4CD10)

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

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

48 (4CD11)

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

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

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

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

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

49 (4DS01)

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

Reason: To prevent uncontrolled seepage entering excavated areas.

50 (4DS03)

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

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

Reason: To protect public health and amenity.

51 (4FP01)

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

Reason: To ensure appropriate access and infrastructure protection.

52 (4LD02)

All healthy trees and shrubs identified for retention on the drawing are to be:

- (a) suitably protected from damage during the construction process, and
- (b) retained unless their removal has been approved by Council.

Reason: This is to ensure that the trees on the site which do not have approval to be removed on the site are suitably protected during any construction works.

Internal Note: This condition is to be imposed with 3LD01.

53 (4LD03)

The felling, lopping, topping, ringbarking, wilful destruction or removal of any tree/s unless in conformity with this approval or subsequent approval is prohibited.

Reason: To prohibit the unnecessary damage or removal of trees without permission from Council during any construction.

54 (4LD04)

The following precautions must be taken when working near trees to be retained:

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

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

55 (4LD05)

Trees and shrubs liable to damage (including, but not limited to street trees) are to be protected with suitable temporary enclosures for the duration of the works. These enclosures are to only be removed when directed by the Principal Certifying Authority.

The enclosures are to be constructed out of F62 reinforcing mesh 1800mm high wired to 2400mm long star pickets, driven 600mm into the ground and spaced 1800mm apart at a minimum distance of 1000mm from the tree trunk.

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

56 (4LD06)

All disturbed surfaces on the land resulting from the building works authorised by this approval must be revegetated and stabilised to prevent erosion either on or adjacent to the land.

Reason: To prevent/contain erosion.

57 (4MS04)

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

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

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

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

58 (4NL01)

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

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

59 (4TS01)

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

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

60 (4TS02)

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

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

61 (4TS03)

An inspection register log-book must be kept on site recording daily inspections of all holes (created for footings, installations etc.), machinery and construction material stockpiles, checking for Long-nosed Bandicoots. These inspections are to be undertaken each work day prior to commencement of works and works may only proceed once the Bandicoot has safely vacated the work site. If a Long-nosed Bandicoot is found within the work area, no work shall proceed until the Bandicoot has safely vacated the area. The log-book is to be made available to Principal Certifying Authority.

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

62 (4TS05)

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

Reason: To ensure that all conditions of consent relating to the protection of native fauna are documented and complied with for the duration of works.

63 (4TS07)

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

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

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

64 (4TS09)

There is to be no off-loading or storage of construction materials or debris on the grassed lawn or grassed road verge adjacent to the property. The integrity of the grass must be preserved at all times.

Reason: To prevent direct physical injury to Long-nosed Bandicoots and allow for foraging activity. This area is likely to be used by bandicoots for foraging.

65 (4TS14)

For assistance to relocate a native animal (other than Long-nosed Bandicoot or Little Penguin) from the worksite, or to report a dead or injured native animal, please contact:

- Sydney Wildlife Services (9413 4300); or
- WIRES Rescue Office (1300 094 737).

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

66 (4WM01)

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

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

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

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

67 (4WM02)

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

Reason: To ensure compliance with legislation.

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

68 (5DS01)

Stormwater drainage from the proposed addition/extension must be disposed of to the existing drainage system. All work is to be carried out in accordance with Council standards and specifications for stormwater drainage. Work is to be completed prior to the issue of the Occupation Certificate.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure infrastructure reverting to Council's care and control is of an acceptable standard.

69 (5FP01)

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

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

70 (5FR01)

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

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

71 (5SP01)

All protective fencing and gates are to be in accordance with Australian Standard AS 1926 prior to the pool being filled with water. The fence is to be a minimum of 1200mm in height and posts and/or supports are to be firmly fixed or encased in such a way that the posts/support are unable to be removed easily. The fence is not to be removed or altered at any time without the prior approval of Council. No water can be in the swimming pool until the required protective fencing has been inspected and approved by Council.

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

72 (5TC01)

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

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

73 (5US01)

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

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

ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OR DEVELOPMENT

74 (6DS01)

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

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

Reason: To protect public health and amenity.

75 (6LP03)

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

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

76 (6MS02)

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

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

77 (6NL01)

Glare from internal lighting is not permitted to extend beyond the limits of the building authorised by this approval.

Reason: To ensure there is no glare from internal lighting to neighbouring properties and land.

78 (6NL03)

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

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

79 (6NL06)

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

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

80 (6NL10)

The construction and ongoing use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to air pollution. All works shall ensure air quality controls are in place and all activity is in accordance with the Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Clean Air) Regulation 2002.

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

81 (6NL12)

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

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

82 (6TS01)

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

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

83 (6WM10)

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

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

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)

ANS01

The new stone wall fence located on the front boundary shall compliant with Clause 4.1.10 of the Manly Development Control Plan (2013). Plans are to be amended accordingly, prior to the issue of a construction certificate.

Reason: To ensure compliance with the Manly DCP and reduce the impact of the wall on the front boundary.

ANS02

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.

ANS03

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

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

Reason: To ensure compliance with legislation and Australian Standards and to protect public health, amenity and to ensure the protection and preservation of the sensitive Cabbage Tree Bay Aquatic Reserve.

ANS04

All stormwater and sewer pipes that are cut into the cliff are to be covered with either sandstone masonry or sandstone coloured shotcrete that is comparable to rocks within the cliff.

Reason: To comply with the State Environmental Planning Policy No. 71 – Coastal Protection to ensure that the visual amenity of the coast is protected and ensure the scenic qualities of the New South Wales coast, and means to protect and improve these qualities.

ANS05

The Registered Proprietor shall maintain on a regular basis the stormwater pollution control pit including the clearing of silt, debris and rubbish, in perpetuity. The Registered Proprietor must ensure the effective operation of the pollution control pit to prevent pollution of the Cabbage Tree Bay Aquatic Reserve by untreated stormwater.

Reason: To ensure appropriate provision is made for the treatment and management of storm water generated by the development for the protection and preservation of the Cabbage Tree Bay Aquatic Reserve.

ANS06

The Landscape Plans, submitted in conjunction with the approved Development Application and as amended by these conditions of consent, are to be amended to comprise only plant species specified in Section 3.3.1a)iv) and/or Schedule 4 (Part B) of the Manly Development Control Plan 2013. No plant species exotic to Australia are permitted to be included in the Landscape Plans.

Reason: Inclusion of additional native species will partially mitigate the loss of bandicoot habitat resulting from the proposal and will improve the terrestrial biodiversity value of the site in accordance with the objective of Clause 6.5(3) and (4) of the Manly Local Environment Plan 2013.

ANS07

All ameliorative conditions recommended in the submitted Terrestrial Biodiversity Impact Assessment (Section 6) (GIS Environmental Consultants, prepared November 2016) are to be complied with prior to and for the duration of works. Evidence of compliance with these recommendations must be provided to the certifying authority prior to issue of the Construction Certificate.

Reason: To protect the biodiversity value of the site in accordance with the objective of Clause 6.5(3) and (4) of the Manly Development Control Plan 2013 and to mitigate impacts to the endangered population of Long-nosed Bandicoots at Manly arising from the development.

ANS08

Amend Landscape plan TAY/02/02 to remove Rraphiolepis species, because of its prolific seeding properties.

Reason: To minimise the spread of weeds and the degradation of private and public open space.

ANS09

The works shall be carried out in accordance with the recommendations made in the Geotechnical Report prepared by JK Geotechnics dated 21 October 2016 reference number: 29343SMrptrev2 received by Council on the 9 November 2016.

Reason: To ensure work is completed in accordance with the findings of the geotechnical report.