

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2019/0276
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Responsible Officer:	Benjamin Price
Land to be developed (Address):	Lot B DP 315261, 7 Clifford Avenue FAIRLIGHT NSW 2094
Proposed Development:	Alterations and additions to a dwelling house including a swimming pool
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	George Yuri Opadchy
Applicant:	George Yuri Opadchy

Application Lodged:	22/03/2019
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	11/09/2019 to 25/09/2019
Advertised:	Not Advertised
Submissions Received:	5
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,045,000.00
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Based on a detailed assessment of the proposal against the applicable planning controls, it is considered that the proposal, as amended, is suitable and appropriate development for the subject site.

- The proposal has received three objections in relation to the loss of views from the properties opposite Clifford Avenue. Following the erection of height poles Council raised concerns with the applicant over the view loss. The plans were amended and re-notified. A detailed assessment of the amended plans, taking into consideration areas of non-compliance, has been carried out and found the development to achieve the reasonable sharing of views.

Accordingly, based on the detailed assessment contained in this report, it is recommended that the application be approved subject to conditions attached to this report.

PROPOSED DEVELOPMENT IN DETAIL

The proposal includes demolition works and alterations and additions to the existing dwelling house to provide for the following:

Lower Ground Floor

- Swimming Pool
- Terraced area
- Family room, bedroom, bathroom, undercroft storage
- Lift

Ground Floor

- Open plan living, kitchen and dining room, sunroom with attached balcony, mudroom/laundry, single garage, lounge and two WC
- Lift

First Floor Plan

- Three bedrooms, bathroom, WC master bedroom with ensuite study and walk in robe

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing
Manly Development Control Plan - 3.4.3 Maintenance of Views
Manly Development Control Plan - 3.4.4 Other Nuisance (Odour, Fumes etc.)

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

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

Manly Development Control Plan - 4.1.5 Open Space and Landscaping

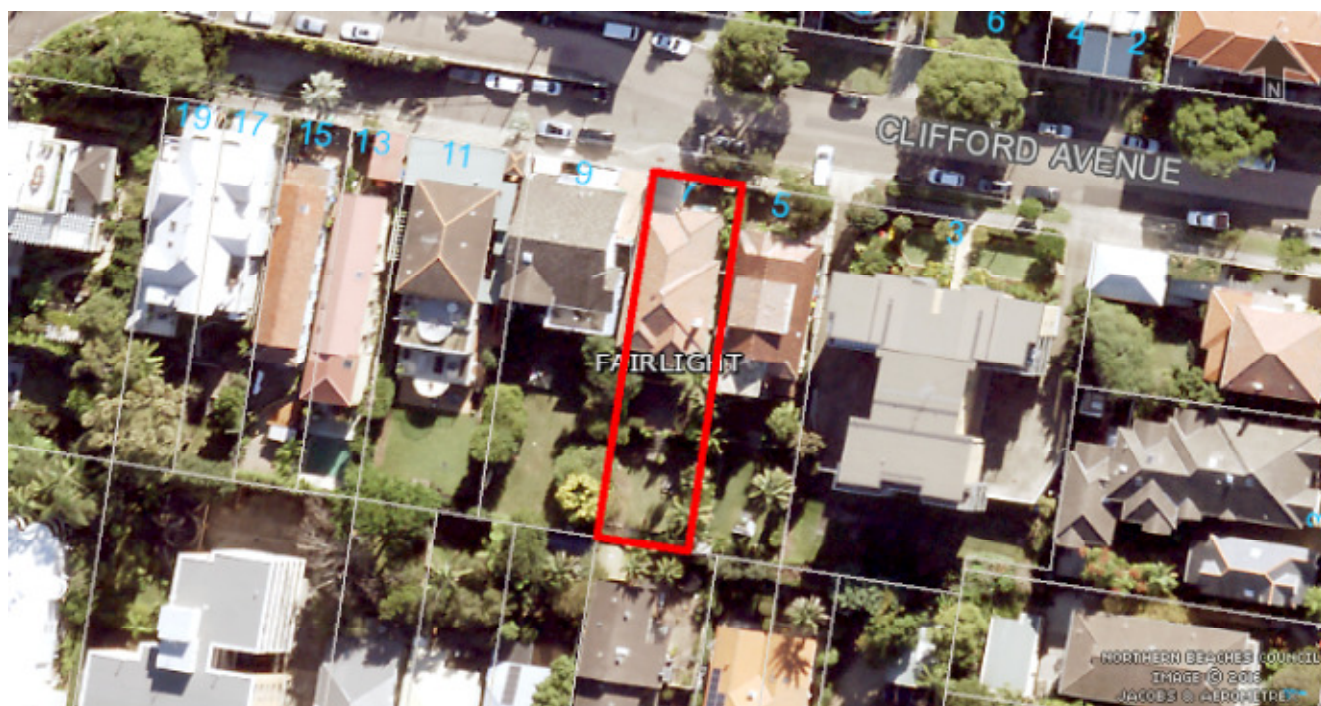
Manly Development Control Plan - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

Manly Development Control Plan - 4.1.9 Swimming Pools, Spas and Water Features

SITE DESCRIPTION

Property Description:	Lot B DP 315261 , 7 Clifford Avenue FAIRLIGHT NSW 2094
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of Clifford Avenue.</p> <p>The site is regular in shape with a frontage of 11.4m along Clifford Avenue and a depth of 45.7m. The site has an area of 522.5m².</p> <p>The site is located within the R1 General Residential zone and accommodates a two storey dwelling house.</p> <p>The site slopes from north to south and includes a crossfall of 6.13m.</p> <p>The site is landscaped for the residential setting and includes lawns and a number of small trees. There are no significant landscape features within the site.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by one, two and three storey dwelling houses, dual occupancies and residential flat buildings.</p>

Map:



SITE HISTORY

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

DA2019/0276 Alterations and additions to a dwelling house including a swimming pool (current application) - Council requested the applicant erect height poles to demonstrate the extent of view loss. On the 29 July 2019 Council advised that the application could not be supported due to the building height variation and the resultant unreasonable loss of views. The application was amended and re-notified for 14 days until the 25 September 2019.

PLM72/2017 - Alterations and additions to the existing dwelling house - The proposal included a variation to the building height development standard. It was advised that the variation could be supported subject to no unreasonable loss of views.

DA94/2001 - Alterations and additions including a First Floor to Existing Dwelling - This development involved a similar built form to the current proposal. There is no evidence of this application being commenced.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(iii) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in accordance with the regulations.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact</p>

Section 4.15 Matters for Consideration'	Comments
	<p>The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 5 submission/s from:

Name:	Address:
Mr Gordon Blues	22 Lauderdale Avenue FAIRLIGHT NSW 2094
Mrs Eva Tamara Edgecombe	10 Clifford Avenue FAIRLIGHT NSW 2094
Mary Kathryn Locke	37 Balgowlah Road MANLY NSW 2095
Mr Jean Marc Schwob Ms Mary Kathryn Locke	37 Balgowlah Road MANLY NSW 2095
Mrs Kerry Dorothy McGough	2 / 8 Clifford Avenue FAIRLIGHT NSW 2094

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

- **View Loss**
- **Sydney water sewer at rear**

The matters raised within the submissions are addressed as follows:

- **View Loss**

Concern was raised over the loss of views from 12, 10 and 8 Clifford Avenue Fairlight

Comment:

The views have been assessed below in accordance with clause 3.4.3 Maintenance of Views of the Manly DCP 2013 and the views Planning Principle established by the NSW Land and Environment Court. The assessment found the amended development to be reasonable and the view sharing acceptable.

- **Sydney Water sewer at rear**

Concern was raised over the impacts of the development on the sewer line at the rear.

Comment:

A condition requiring the plans to be submitted to Sydney Water has been included in this recommendation. This will ensure no unreasonable impacts to Sydney Water infrastructure.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Solid Fuel/Oil Heater)	<p>General Comments</p> <p>Environmental Health have been requested to comment on the proposed extension of the chimney to the existing dwelling fire place which will be raised because of the addition on top.</p> <p>Note: The chimney is the visible outside structure -- the brick, block, slate or rock. The flue is the internal shaft (from a fireplace, a wood stove or a burner) that vents the gases and smoke produced from the fire to the outside</p> <p>The increasing height will improve the drawing ability of the chimney flue which should reduce smoke generated in the vicinity of the neighbouring dwellings. The location of the new termination point of the flu will not create any adverse affect pending its correct use by the operator.</p> <p>it is not clear if the fire place is a pre 1970's open fire place or a more modern enclosed solid fuel heater. Irrespective the only proposal before us is to increase the height of the flue therefore installation conditions relate only to the extension.</p> <p>Recommendation</p> <p>APPROVAL - subject to conditions</p>
Landscape Officer	<p>The landscape component of the proposal is acceptable subject to the protection of nominated existing trees and vegetation, and the completion of landscaping.</p>

Internal Referral Body	Comments
	<p>Council's Landscape section have assessed the application against the landscape controls of Manly DCP2013, section 3: General Principles of Development, and section 4: Development Controls and Development Types, and specifically: 3.3.1 Landscaping Design; 3.3.2 Preservation of Trees or Bushland Vegetation; and 4.1.5 Open Space and Landscaping.</p> <p>A Landscape Plan is provided with the development application, and this satisfies the requirements of Manly DCP2013, subject to conditions.</p> <p>A Arboricultural Impact Assessment is provided with the development application, and this satisfies the requirements of Manly DCP2013, subject to conditions.</p>
NECC (Development Engineering)	<p>2nd Engineering referral Additional information of stormwater and easement have been provided. Development Engineering has no objection to the application subject to the following conditions of consent.</p> <p>1st engineering referral The Engineering consultant proposed to discharge the on site stormwater into an existing easement within No. 5 Clifford Avenue. However, it is no further information has been submitted about the easement. Additional information of the easement shall be submitted to support the application.</p> <p>Furthermore, the total impervious areas of the development is over 60% of the total site area. In accordance with section 4.1 of Council's Manly Specification for On Site Stormwater Management 2003, an On Site Stormwater Detention System (OSD) is required. The design requirements and parameters can be found in the above specification.</p> <p>As such, Development Engineering cannot support the application.</p>

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

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

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

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

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

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

SEPP 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A329994_02 dated 19 March 2019).

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

Manly Local Environmental Plan 2013

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

aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.5m - 8.3m	N/A	Yes
Floor Space Ratio	FSR: 0.6:1 (313.5sqm)	FSR: 0.59:1 (312.8sqm)	N/A	Yes

Compliance Assessment

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

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 522.5sqm	Requirement	Proposed	% Variation*	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwelling per 250sqm	1 dwelling per 522.5sqm	N/A	Yes
4.1.2.1 Wall Height	East: 7.3m (based on gradient 1:7.5)	8.7m	19.2%	No
	West: 7.5m (based on gradient 1:6)	8.6m	14.7%	No
4.1.2.2 Number of Storeys	2	3	50%	No
4.1.2.3 Roof Height	Height: 2.5m	1.8m	N/A	Yes
4.1.4.1 Street Front Setbacks	6m	Garage Nil Ground Floor 2.975m First Floor Balcony 3.4m First Floor 5.7m	100% 50.4% 43% 5%	No
4.1.4.2 Side Setbacks and Secondary Street Frontages	East Ground Floor 1m - 2m	Ground Floor Existing 1.5m		No
	First Floor 1.9m - 2.9m	First Floor 2.4m Pop-out 2m	0%-17.2% 27%	

	(based on wall height)			
	West Ground Floor 0.9m-1.9 First Floor 1.86m - 2.86m (based on wall height)	Ground Floor nil-0.9m First Floor 2m Pop-out 1.4m	100% - 52.6% 0%-24.7% 30%	No
4.1.4.4 Rear Setbacks	8m	Terrace 14.4m Dwelling 20m	N/A	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area (287.4sqm)	60.4% (315.8sqm)	N/A	Yes
	Open space above ground Max. 25% of total open space (78.9sqm)	15.9% (50.5sqm)	N/A	Yes
4.1.5.2 Landscaped Area	Landscaped area 35% of open space (110.53sqm)	37.2% (117.4sqm)	N/A	Yes
	3 native trees	2 trees	33%	No
4.1.5.3 Private Open Space	18sqm per dwelling	Ground Floor 17.6sqm Lower Ground 41.7sqm	N/A	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m (5.7m)	4.8m	N/A	Yes
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	2.5m	100%	No
	1m curtilage/1.5m water side/rear setback	Curtilage East 1.5m West 0.9m Water East 2.4m West 1.2	10% 20%	No
Schedule 3 Parking and Access	Dwelling 2 spaces	1 spaces	50%	No

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.3 Landscaping	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	No	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	No	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

Detailed Assessment

3.4.1 Sunlight Access and Overshadowing

Merit consideration:

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

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

Comment:

The subject site and the adjoining properties will maintain a northerly aspect to the street. Solar access can be gained from this aspect all day throughout the winter solstice. The proposal will result in

additional overshadowing of the southern private open space areas of the neighbouring properties. These areas are self shadowed for the majority of the day. The proposal is compliant with the height of buildings development standard and the rear setback control. Compliance with the side setback control will not result in any significant improvement to the overshadowing. As such, the overshadowing is considered to be equitable.

Objective 2) To allow adequate sunlight to penetrate:

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

Comment:

The proposal will allow adequate solar access to the private open spaces and windows to living spaces/habitable rooms on the site and to the adjoining properties.

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

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

Comment:

The proposal will maximise the penetration of winter sunlight to living rooms and principal outdoor areas of the site. The proposal will also ensure the neighbouring properties receive adequate solar access.

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

3.4.3 Maintenance of Views

Merit consideration:

The proposal has been subject to submissions raising view loss concerns from 8, 10 and 12 Clifford Avenue Fairlight. With regard to the loss of views, the development is considered against the underlying Objectives of the Control as follows:

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

Comment:

The assessment below has found that the proposal provides for adequate view sharing for both the existing and proposed development and the future residents of Manly.

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

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

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

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

Comment:

Following concerns raised with the loss of views Council requested height poles be erected. The plans were later amended to reduce the rear 3.8m of roof from RL32.7 to 32.17 (0.53m) resulting in a compliant building height. The poles were not required to be amended and can be seen in the photographs below.

The following photo was taken from 2/8 Clifford Avenue Fairlight.



View loss concern from 2/8 Clifford Ave - Taken from balcony attached to living room

There are no views affected from this property. The predominant views from 8 Clifford Avenue are gained from directly overlooking the front boundary. The subject site is further to the west and will not have an unreasonable impacts on views from this property.

The following photographs were taken from 10 Clifford Avenue Fairlight.



View loss from 10 Clifford Avenue - Taken from Living Room (left) Family Room (right)

The views lost from this property are water views from the family room and bedroom levels gained from a sitting and standing position. The views are gained from directly overlooking the front boundary.

The following Photographs were taken from 1/12 Clifford Avenue Fairlight.





View loss from 1/12 Clifford Avenue - Taken from living room (left) and deck (right)

The views lost are from the deck, bedroom and living area of the property. The views are water views obtained from overlooking the front boundary and are gained from a standing and sitting position.

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

Comment:

The views impact on 8 Clifford Avenue is considered to be negligible. This property will retain extensive water views directly overlooking the front boundary.

The view impact from 10 Clifford Avenue is considered to be minor. This property is split into three main levels being the living room level (top) family room level (middle) and bedroom level (lower). This property will retain extensive water views including (obscured) views of south head from the living room level and family room level. The bedroom level will maintain some obscured views between 7 and 5 Clifford Avenue.

The view impact from 1/12 Clifford Avenue is considered to be minor. This property will retain extensive water views including a view of south head and a partial view of north head from the living area, bedroom and deck.

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

Comment:

The proposal complies the height of buildings and floor space ratio development standards of the Manly LEP 2013. The development does not comply with the wall height, side setbacks and front setback controls. The view loss is a result of the overall height of the building. The non-compliance with the controls have been assessed below and found to be satisfactory. Due to the minor extent of the impact and the compliance with the development standards the proposal is considered to reasonable and the view sharing acceptable.

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

Comment:

As discussed above the proposal will maintain a reasonable sharing of views within the locality.

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

3.4.4 Other Nuisance (Odour, Fumes etc.)

The proposal includes an outdoor fireplace. It is not clear what the intended use or fuel for the outdoor fireplace is and no supporting information has been submitted with the application. As such a condition is recommended to delete the outdoor fireplace.

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

Description of Non-compliance

The Manly DCP 2013 requires buildings to incorporate a maximum wall height based on the slope of the land. The proposal does not comply with this control due to the eastern and western elevations.

Merit Consideration

The Manly DCP 2013 does not include objectives relevant to this clause but refers to the objectives of clause 4.3 Height of Buildings of the Manly LEP 2013. With regard to the variation the development is considered under the relevant objectives below:

(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 proposal is consistent with the building height permitted by clause 4.3 Height of Buildings of the Manly LEP 2013. The surrounding area predominantly consists of pitched roof forms. The proposal incorporates a pitched roof presentation to the streetscape and is designed to step down with the topography to ensure that it is consistent with the topographic landscape. The non-compliances with the wall height are situated at the rear of the building and will not impact on the streetscape character of the locality.

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

Comment:

The proposal is of a bulk and scale that is consistent with surrounding and nearby developments. The proposal complies with the height of building and floor space ratio development standards of the Manly LEP 2013. These development standards are aimed to control the bulk and scale of buildings. Compliance with these standards indicates that the development is of a bulk and scale that could be reasonably expected within the locality.

(c) to minimise disruption to the following:

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

Comment:

The proposal has been assessed above with regard to clause 3.4.3 Maintenance of Views of the Manly DCP 2013 and the Views planning principle established by the NSW Land and Environment Court. This assessment has found that the proposal will not result in any unreasonable impact on views within the locality.

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

Comment:

The subject site and the adjoining properties are orientated with a north-south aspect. This orientation ensures the adjoining properties receive good solar access from the north all day during the winter solstice. The proposal will not result in any unreasonable overshadowing of the adjoining properties during the winter solstice. The proposal will not overshadow any public open spaces.

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

Comment:

Not applicable.

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

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

Description of non-compliance

The Manly DCP 2013 requires a 6m front setback, where the prevailing setback is variable, and a side setback of 1/3 of the wall height. The proposal is not compliant with the front setback due to the garage and dwelling. The proposal is non-compliant with side setback control due to the garage, ground floor western addition and the first floor.

Merit consideration:

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

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

Comment:

The streetscape includes a number of examples of garages constructed to the street front boundary. The proposed garage will replace the existing carport and is consistent with the streetscape character of the locality.

The proposed additions to the dwelling are setback behind the garage and are consistent with the front setback of the nearby properties. Furthermore the proposed first floor incorporates a balcony and an additional setback to provide greater physical separation from the street and ensure the development does not impose on the streetscape of the locality.

The proposal is of an adequate design to ensure the existing streetscape is maintained.

Objective 2) To ensure and enhance local amenity by:

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

Comment:

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

- The design of the proposal incorporates privacy screening and high level windows where

necessary to ensure no unreasonable overlooking of the neighbouring properties. Furthermore the layout of the floors restrict overlooking and long term entertainment in areas of potential overlooking.

- The adjoining properties will maintain a northerly aspect and access to solar access all day during the winter solstice. The development is compliant with the height of buildings development standard and compliance with the setback control will not generate any substantial improvement to overshadowing. The proposal will provide equitable access to light, sunshine and air movement within the locality.
- The proposal has been assessed above with regards to the maintenance of views and has been found to be satisfactory.
- The proposal is of a suitable design to complement the streetscape character and maintain the pattern of spaced between buildings.
- The proposal will not result in any unreasonable impacts on traffic conditions within the locality.

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

Comment:

The proposed flexibility is satisfactory in this circumstance.

Objective 4) To enhance and maintain natural features by:

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

Comment:

The proposal includes compliant landscaped areas and will enhance the planting on the site.

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

Comment:

Not applicable.

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

4.1.5 Open Space and Landscaping

Description of non-compliance

The Manly DCP 2013 requires the planting of three endemic trees on this site. The proposal includes two endemic trees of an unspecified species.

Merit consideration:

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

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

Comment:

The proposal does not include the removal of any significant landscape features. The tree removal was supported by an arborist report and, subject to compliance with the recommendations, Councils Landscape Officer. The proposal includes the replacement of the two mature trees with two endemic trees. The Manly DCP 2013 requires three endemic trees on this site. No justification was provided as to why three trees cannot be accommodated. As such, a condition of consent is recommended requiring compliance with this control. The condition will also ensure the "endemic" trees are of the correct species. The proposal subject to the condition of consent will augment the native vegetation on the site.

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

Comment:

The proposal is consistent with the minimum required landscaped area and maximises open space at ground level. The proposal subject to conditions will ensure appropriate tree planting and the maintenance of existing vegetation and bushland.

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

Comment:

The proposal has been assessed with regards to amenity and has been found to be satisfactory. The proposal will maintain an adequate level of amenity on the site, streetscape and surrounding area.

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

Comment:

The proposal includes sufficient landscaped areas to maximise water infiltration on site.

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

Comment:

The proposed landscaping will minimise the spread of weeds and degradation of private and public open space.

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

Comment:

The proposal subject to the conditions will maximise wildlife habitat on the site.

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

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

Description of non-compliance

The Manly DCP 2013 requires two parking spaces to be provided per dwelling. The proposal will maintain the existing one space servicing the dwelling.

Merit consideration:

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

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

Comment:

The proposed parking is accessible to the dwelling on the site. In relation to the number of parking spaces the Manly DCP 2013 provides the following exception:

In relation to the provision of parking for dwelling houses, Council may consider the provision of only 1 space where adherence to the requirement for 2 spaces would adversely impact on the streetscape or on any heritage significance identified on the land or in the vicinity.

The provision of two parking spaces on this site would dominate the street frontage and result in an unreasonable impact on the streetscape. Given the use of the site as a single dwelling and the likely impact of additional parking on the streetscape the provision of one parking space is considered adequate in this circumstance.

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

Comment:

As discussed, it is considered that an exception be granted in this circumstance. This is due to the likely impact an additional parking space will have on the streetscape and the use of the site as a single dwelling.

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

Comment:

The proposed design is efficient, safe and convenient. Furthermore the provision of a single carparking space on the street front boundary is consistent with the streetscape. The development will not have an unreasonable impact on the streetscape

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

Comment:

The proposal does not require any excessive excavation.

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

Comment:

The proposal will maintain the existing footpath crossing.

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

Comment:

The proposal is of an appropriate design to limit the amount of impervious surfaces and provide screening of internal accesses from public view.

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

Comment:

The proposal is not located within a local centre. However is located with close proximity to local shops and bus lines direct to Manly. The proposal will encourage the use of alternative modes of transport.

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

4.1.9 Swimming Pools, Spas and Water Features

Description of Non-compliance

The Manly DCP 2013 requires swimming pools be setback from the side and rear boundaries 1m to the curtilage and 1.5m to the waters edge. The western side of the proposed swimming pool is setback 0.9m to the curtilage and 1.2m to the waters edge from the side boundary.

The Manly DCP 2013 also permits swimming pools to be a maximum height of 1m above ground level. The proposal is up to a maximum height of 2.5m.

Merit Consideration

With regard to the consideration of the variation, the development is considered under the objectives of the control below.

Objective 1) To be located and designed to maintain the privacy (visually and aurally) of neighbouring properties and to minimise the impact of filter noise on neighbouring properties;

Comment:

The swimming pool provides limited opportunities to stand at this height and incorporates landscaping on the side boundary to limit overlooking. The proposal will not result in any unreasonable impacts on the visual privacy of the neighbouring properties. The pool filter is not located in close proximity to any habitable areas of the neighbouring property. Furthermore compliance with the Protection of the Environment Operations Act 1997 will ensure the plant is maintained in a way to not result in unreasonable acoustic impacts.

Objective 2) To be appropriately located so as not to adversely impact on the streetscape or the established character of the locality;

Comment:

The proposal will not impact on the streetscape or established character of the locality.

Objective 3) To integrate landscaping; and

Comment:

The proposal incorporates adequate landscaping on the side boundaries to minimise any impacts of the swimming pool.

Objective 4) To become an emergency water resource in bush fire prone areas.

Comment:

Not applicable.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$10,450 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$1,045,000.

CONCLUSION

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

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

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

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

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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2019/0276 for Alterations and additions to a dwelling house including a swimming pool on land at Lot B DP 315261, 7 Clifford Avenue, FAIRLIGHT, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA.01 Cover Sheet + Site Plan Issue D	30/06/2019	Du Plessis & Du Plessis Architects
DA.02 Roof Plan Issue D	30/06/2019	Du Plessis & Du Plessis Architects
DA.05 Demolition Lower Ground Floor Plan Issue D	30/06/2019	Du Plessis & Du Plessis Architects
DA.06 Demolition Ground Floor Plan Issue D	30/06/2019	Du Plessis & Du Plessis Architects
DA.07 Lower Ground Floor Plan Issue D	30/06/2019	Du Plessis & Du Plessis Architects
DA.08 Ground Floor Plan Issue D	30/06/2019	Du Plessis & Du Plessis Architects
DA.09 First Floor Plan Issue D	30/06/2019	Du Plessis & Du Plessis Architects
DA.10 Elevation North/South Issue D	30/06/2019	Du Plessis & Du Plessis Architects
DA.11 Elevations East/West Issue D	30/06/2019	Du Plessis & Du Plessis Architects
DA.12 Sections Issue D	30/06/2019	Du Plessis & Du Plessis Architects
Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Arboricultural Impact Assessment	7/07/2018	Plateau Trees

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
L.001 Concept Landscape Plan Issue C	5/11/2018	Du Plessis & Du Plessis Architects

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

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

2. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a dwelling house.

A dwelling house is defined as:

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

(Manly Local Environment Plan 2013 (as amended) Dictionary)

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

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

3. **Prescribed Conditions**

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

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and

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

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

Reason: Legislative requirement.

4. **General Requirements**

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

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that

occurs on Council's property.

- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

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

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

FEES / CHARGES / CONTRIBUTIONS

5. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$10,450.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$1,045,000.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

6. **Security Bond**

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

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

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

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is

located on Council's website at www.northernbeaches.nsw.gov.au).

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

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

7. **Required Canopy Tree Planting (MLEP)**

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

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

8. **On-Slab landscape works**

- i) Details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed method of waterproofing to all internal walls and slab, and drainage over the concrete slab upon which soil and planting is being provided,
- ii) Landscape treatment details shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule,
- iii) The following soil depths are required to support landscaping as proposed:
 - 300mm for lawn
 - 600mm for shrubs,
- iv) Design certification shall be submitted to the Certifying Authority by a structural engineer, that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: to ensure appropriate and secure waterproofing and drainage is installed to direct water flow into the drainage system.

9. **Amendments to the approved plans**

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

- The outdoor fireplace is to be deleted from the plans.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

10. **On-site Stormwater Detention Compliance**

Certification of Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Northern Beaches Council's MANLY SPECIFICATION FOR ON-SITE STORMWATER MANAGEMENT 2003 and the concept drawing by GZ Consulting Engineer, drawing number DR-000 to DR004 dated 28/5/2019. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

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

11. **Stormwater Drainage Application**

A Stormwater drainage application under Section 68 of the Local Government Act 1993 is to be submitted to Council for approval. The submission is to include Civil Engineering plans for the design of the connection to Council's pipeline which are to be generally in accordance with the civil design approved with the Development Application and Council's specification for engineering works - AUS-SPEC #1.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fees and Charges.

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

Reason: To ensure appropriate provision for disposal and Maintenance Stormwater management and compliance with the BASIX requirements, arising from the development.

12. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

13. **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.

14. **Tree removal**

In consideration of the assessment of development impact, the following existing trees are approved for removal based on the recommendations of the Arboricultural Impact Assessment (dated 7/7/18) prepared by Plateau Trees and as nominated on the Landscape Plan L.001 prepared by Du Plessis + Du Plessis Architects:

T1 - Avocado (exempt)

T2 - Jacaranda (exempt)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

15. **Road Reserve**

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

Reason: Public Safety.

16. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act
- Work Health and Safety Regulation
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)] and
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)]
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005.
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

17. **Traffic Control During Works**

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

Reason: Public Safety

18. **Tree and vegetation protection**

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

- i) all trees and vegetation on site, unless granted approval for removal, and excluding exempt trees and palms under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation,

B) Tree protection shall be generally undertaken as follows:

- i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites,
- ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF Level 5 Arborist,
- iii) existing ground levels shall remain under the tree protection zone of trees to be retained, unless authorised by AQF Level 5 Arborist,
- iv) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an AQF Level 5 Arborist. Details including photographic evidence of works undertaken shall be submitted to the Certifying Authority,
- v) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- vi) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a AQF Level 5 Project Arborist on site,
- vii) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF

Level 5 Arborist on site,

viii) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist, including advice on root protection measures,

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

x) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009,

xi) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.

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

19. **Survey**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

Reason: To determine the height of buildings under construction comply with levels shown on approved plans. (DACPLE01)

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

20. **Landscape works**

Landscaping is to be implemented in accordance with the Landscape Plan L.001, prepared by Du Plessis + Du Plessis Architects, inclusive of the following requirements:

i) the proposed native tree planting documented on L.001 shall be typically expected to reach a height at maturity of 10 metres, to bring the proposal into compliance with Figure 37 of the Manly Development Control Plan 2013,

ii) all tree planting is to be installed at 75 litre container size,

iii) all tree planting shall comply with 3.3.1 Landscaping Design, section b) item iii) where trees should be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight as described in the clause, or where the proposed tree locations may otherwise be positioned to minimise any significant loss of views,

iv) all tree planting shall have a minimum individual area of 3 metres x 3 metres of soil area, and shall be located a minimum of 5 metres from existing and proposed built structures, or minimum of 3 metres where pier and beam footings are used.

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

Reason: to ensure that the landscape treatments are installed to provide landscape amenity and soften the built form.

21. **Authorisation of Legal Documentation Required for Onsite Detention**

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

Reason: To create encumbrances on the land.

22. **Registration of Encumbrances for On-site Stormwater Detention**

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

Reason: To identify encumbrances on land.

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

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

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

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

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

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

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

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

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

25. **Installation or alteration of solid/fuel burning heaters**

Installation work for the flue/chimney extension must be carried out by an appropriately experienced and qualified person and in accordance with the relevant provisions of AS2918:2001 – Domestic Solid Fuel Burning Appliances – Installation

Reason: To ensure the installation is completed in a legislatively compliant manner.

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

26. **Landscape maintenance**

All landscape components are to be maintained for the life of the development. A 12 month establishment period shall apply for all new landscaping. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components and species to maintain the landscape theme of the landscape plan.

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

27. **Environmental and priority weed control**

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015.

Reason: preservation of environmental amenity.

28. **Maintenance of solid fuel heaters**

The owner/occupier shall ensure servicing of the heater is maintained according to the manufacturer's specifications.

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

29. **Operation of solid fuel burning heaters**

You are requested to take all practicable measures to prevent the likelihood of causing smoke and/or odour nuisances. Such measures should include:

- Using dry seasoned hardwood
- Storing wood in a dry well ventilated place
- Having a hot and well oxygenated fire
- Ensuring that the chimney flue is clean
- Checking the chimney at different stages of the fire to see if there is any smoke

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