



Reference: 130115 DA259/13 S96(1A) P2 GH:NG  
Enquiries: Landuse & Sustainability

Total Pages: 8

Baxter & Jacobson Architects

Dear Sir/Madam,

**NOTICE OF DETERMINATION**  
Pursuant to Section 81(1)(a) of the *Environmental Planning and Assessment Act 1979*

<b>Development Application No.</b>	259/2013
<b>Proposed Development</b>	Section 96(1A) to modify approved Alterations and additions to an existing building to create an additional dwelling (caretakers flat) with balcony-involving relocation of internal ensuite, changes to window, modification to ANS01 to remove the restriction that the unit be used as caretakers unit on perpetuity - Part 2
<b>Land to be developed</b>	SP 7114; 22 Central Avenue, Manly
<b>Date of Original Determination</b>	28 May 2014
<b>Determination of Modification</b>	<b>Approved by DAU</b>
<b>Date of Determination of Modification</b>	07 January 2015

This application was considered at Councils Development Assessment Unit Meeting of 7 January 2015 when it was determined;

That pursuant to Section 96 (1A) of the Environmental Planning and Assessment Act 1979, the proposed modification to Development Consent No. 259/2013 for Alterations and additions to an existing building to create an additional dwelling (caretakers flat) with balcony involving relocation of internal ensuite, changes to window, modification to ANS01 to remove the restriction that the unit be used as caretakers unit on perpetuity at 22 Central Avenue, Manly be **Approved** subject to:

1. The original conditions of consent as approved by DAU on 28 May 2014.
2. As modified by Section 96(1A) – Part 2 – to modify condition Nos. DA1 and ANS01 and the addition of condition No 20 (3MS01).

**The following Condition No. DA1 is to be amended as per Section 96(1A) – Part 2 – determined on 7 January 2015:**

**DA1**

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

*Plans affixed with Council's stamp relating to Development Consent No. 259/2013:*

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
335.01 01 / Location and Site Analysis	Issue B / 12 June 2012	19 December 2013
335.01 02 / Site Plan and Section	Issue B / 12 June 2012	19 December 2013
335.01 03 / Proposed Floor Plans	Issue B / 12 June 2012	19 December 2013
335.01 04 / Section	Issue B / 12 June 2012	19 December 2013
DA01	Undated	28 January 2014

*Documentation affixed with Council's stamp relating to Development Consent No. 259/2013:*

- *Statement of Environmental Effects prepared by Baxter Jacobson Architects Pty Ltd dated 13 December 2014 and received by Council 19 December 2013.*
- *SEPP 65 assessment prepared by Baxter Jacobson Architects Pty Ltd dated 13 December 2013 and received by Council 19 December 2013.*
- *Clause 4.6 MLEP 2013 – Floor Space Ratio Variation, dated 16 September 2013 and received by Council 19 December 2013.*

**Except as amended by Section 96(1A) – Part 2 – determined on 7 January 2015:**

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
335.01 03 / Proposed Floor Plans	Issue C / 15 August 2014	13 October 2014
335.01 04 / Section	Issue C / 4 September 2014	13 October 2014

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*

**The following Condition No. ANS01 is to be amended as per Section 96(1A) – Part 2 – determined on 7 January 2015:**

**ANS01**

The unit is not to be separately titled on the strata plan and is to be listed as common property. The unit is not to be sold separately and is to remain the property of the body corporate.

*Reason: to insure that the unit available to be used as a caretaker flat.*

**COUNCIL OFFICES**

1 Belgrave Street  
Manly NSW 2095

**POSTAL ADDRESS**

PO Box 82  
Manly NSW 1655

**T:** +61 2 9976 1500  
**F:** +61 2 9976 1400  
**E:** records@manly.nsw.gov.au

**SURFCITY** **SURFCITY**  
MANLY AUSTRALIA® AUSTRALIA®  
www.manly.nsw.gov.au

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

### 1 (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.*

### 2 (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 of \$1,300. 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.*

### 3 (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.*

### 4 (2CD07)

A Certificate of Adequacy signed by a practising structural engineer stating the existing structure is capable of supporting the proposed additions, is to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

*Reason: The existing building must be able to support proposed additional loading.*

### 5 (2FR01)

A Fire Safety Schedule specifying the fire safety measures (both current and proposed) which should be implemented in the building premises must be submitted with the Construction Certificate application, in accordance with Part 9 Clause 168 of the Environmental Planning and Assessment Regulation 2000.

**Note:** A Construction Certificate cannot be issued until a Fire Safety Schedule is received.

*Reason: Compliance with the Environmental Planning and Assessment Act 1979.*

#### COUNCIL OFFICES

1 Belgrave Street  
Manly NSW 2095

#### POSTAL ADDRESS

PO Box 82  
Manly NSW 1655

**T:** +61 2 9976 1500  
**F:** +61 2 9976 1400  
**E:** records@manly.nsw.gov.au

**SURF CITY** **SURF CITY**  
MANLY AUSTRALIA® AUSTRALIA®  
www.manly.nsw.gov.au

## 6 (2US01)

A Section 94 contribution is to be paid for the provision of or increase the demand for public amenities and public services as a consequence of the development in the area. The total contribution for this development is \$20,000, being \$20,000.00 per additional dwelling. This contribution shall be paid to Council prior to the release of the Construction Certificate.

Note: The Section 94 Contribution fees are indexed annually in accordance with movements in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.

Reason: To enable the provision of public amenities and services required/anticipated as a consequence of increased demand resulting from the development.

## 7 (2WM01)

Details of waste management facilities are to be submitted with the application for a Construction Certificate in accordance with the Manly Development Control Plan 2013.

Reason: To ensure appropriate management of waste.

## 8 (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

## 9 (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.

## 10 (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.

**COUNCIL OFFICES**

1 Belgrave Street  
Manly NSW 2095

**POSTAL ADDRESS**

PO Box 82  
Manly NSW 1655

T: +61 2 9976 1500  
F: +61 2 9976 1400  
E: records@manly.nsw.gov.au

**SURF CITY** **SURF CITY**  
MANLY AUSTRALIA® AUSTRALIA®  
www.manly.nsw.gov.au

11 (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.

12 (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.

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

13 (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.

14 (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.

### **COUNCIL OFFICES**

1 Belgrave Street  
Manly NSW 2095

### **POSTAL ADDRESS**

PO Box 82  
Manly NSW 1655

T: +61 2 9976 1500  
F: +61 2 9976 1400  
E: [records@manly.nsw.gov.au](mailto:records@manly.nsw.gov.au)

**SURF CITY** **SURF CITY**  
MANLY AUSTRALIA® AUSTRALIA®  
[www.manly.nsw.gov.au](http://www.manly.nsw.gov.au)

- 10) 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.
- 11) 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.
- 12) 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.
- 13) 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.
- 14) 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.
- 15) Building operations such as brickcutting, 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.
- 16) 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.

17) 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.

#### 15 (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. 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.

#### 16 (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.

#### COUNCIL OFFICES

1 Belgrave Street  
Manly NSW 2095

#### POSTAL ADDRESS

PO Box 82  
Manly NSW 1655

T: +61 2 9976 1500  
F: +61 2 9976 1400  
E: records@manly.nsw.gov.au

**SURFCITY** **SURFCITY**  
MANLY AUSTRALIA® AUSTRALIA®  
www.manly.nsw.gov.au

## 17 (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 Occupational Health and Safety Act 2000,
- The Occupational Health and Safety Regulation 2001,
- The Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (1998)],
- The Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)] <http://www.nohsc.gov.au/> ], and
- The Workcover NSW Guidelines for Licensed Asbestos Removal Contractors.

**Note:** The Code of Practice and Guide referred to above are known collectively as the Worksafe Code of Practice and Guidance Notes on Asbestos. They are specifically referenced in the Occupational Health and Safety Regulation 2001 under Clause 259. Under the Occupational Health and Safety Regulation 2001, the Worksafe Code of Practice and Guidance Notes on Asbestos are the minimum standards for asbestos removal work. Council does not control or regulate the Worksafe Code of Practice and Guidance Notes on Asbestos. Those involved with work to asbestos should be made aware of the requirements by visiting [ww.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au) or one of Workcover NSW's offices for further advice.

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

## 18 (4MS01)

Should you appoint Council as the Principal Certifying Authority (PCA) to undertake inspections during the course of construction, then the following inspection/certification are required:

- Framework inspection,
- Wet area moisture barrier,
- Final inspection.

The cost of these inspections by Council is \$885 (being \$295 per inspection inclusive of GST). Payment of the above amount is required prior to the first inspection. Inspection appointments can be made by contacting the Environmental Services Division on 9976 1414.

At least 24 hours notice should be given for a request for an inspection and submission of the relevant inspection card. Any additional inspection required as a result of incomplete works will incur a fee of \$165.

*Reason: To ensure that the development is completed in accordance with the terms of the development consent and with the Building Code of Australia.*

**COUNCIL OFFICES**

1 Belgrave Street  
Manly NSW 2095

**POSTAL ADDRESS**

PO Box 82  
Manly NSW 1655

**T:** +61 2 9976 1500  
**F:** +61 2 9976 1400  
**E:** [records@manly.nsw.gov.au](mailto:records@manly.nsw.gov.au)

**SURF CITY** **SURF CITY**  
MANLY AUSTRALIA® AUSTRALIA®  
[www.manly.nsw.gov.au](http://www.manly.nsw.gov.au)

## ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OR DEVELOPMENT

19 (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.*

**The following Condition No. 20 is to be added as per Section 96(1A) – Part 2 – determined on 7 January 2015:**

### CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

20 (3MS01)

Works in connection with this 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.*

**WARNING: Failure to obtain a Construction Certificate prior to the commencement of any building works is a serious breach of Section 81A(2) of the *Environmental Planning & Assessment Act 1979*. It is also a criminal offence which attracts substantial penalties and may also result in action in the Land and Environment Court and orders for demolition.**

**Please note that all building work must be carried out fully in accordance with this development consent and conditions of approval. It is an offence to carry out unauthorised building work or building work that is not in accordance with this consent.**

**In accordance with Clause 284 of the *Environmental Planning and Assessment Regulation 2000*, non compliance with the above conditions may result in Council issuing a Penalty Notice which may incur a fine.**

#### Notes:

If you are dissatisfied with this decision, Section 97AA of the *Environmental Planning and Assessment Act 1979* gives the applicant the right to appeal to the Land and Environment Court of New South Wales (their address being Level 4, 225 Macquarie Street, Sydney NSW 2000).

Should you have any questions in relations to the matter, please contact Council's Landuse & Sustainability, on (02) 9976 1414, during business hours.

Signed below on behalf of the consent authority.

Yours faithfully,

Date: 22/1/15

  
Kathryn Parker

Public Officer

#### COUNCIL OFFICES

1 Belgrave Street  
Manly NSW 2095

#### POSTAL ADDRESS

PO Box 82  
Manly NSW 1655

T: +61 2 9976 1500  
F: +61 2 9976 1400  
E: records@manly.nsw.gov.au

**SURFCITY** **SURFCITY**  
MANLY AUSTRALIA® AUSTRALIA®  
www.manly.nsw.gov.au