

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0302
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Responsible Officer:	Claire Ryan
Land to be developed (Address):	Lot 6 DP 3742, 41 Upper Clifford Avenue FAIRLIGHT NSW 2094
Proposed Development:	Demolition works and construction of multi dwelling housing
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:	Phillip Leonard Cox Julie Anne Cox
Applicant:	H P G Fairlight Project Pty Ltd & Carl O Peterson

Application Lodged:	24/03/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New multi unit
Notified:	04/04/2020 to 22/04/2020
Advertised:	04/04/2020
Submissions Received:	9
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 3,800,000.00
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EXECUTIVE SUMMARY

Northern Beaches Council is in receipt of Development Application DA2020/0302 for demolition works and construction of multi dwelling housing at 41 Upper Clifford Avenue, Fairlight. The proposal is referred to the Development Determination Panel (DDP) for review and determination, given the number of objections received and the estimated cost of works.

The proposed development is compliant with the development standards of the *Manly Local Environmental Plan 2013* (MLEP 2013). The proposed development required a merit assessment in relation to wall height, number of storeys, side setbacks, and parking controls of the *Manly Development Control Plan 2013* (MDCP 2013), though the non-compliant elements were minor in nature and acceptable on merit.

The proposed development received nine objections in relation to view loss, loss of property value, built form non-compliance, traffic and parking, geotechnical concerns, impacts to privacy impacts and sunlight, lack of neighbour consultation, and inadequate information.

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 seeks consent for a multi dwelling housing development, as follows:

- Building A - Fronting Upper Clifford Avenue:
 - Detached two-storey dwelling with double garage:
 - Unit 1 Lower FFL RL 54.93
 - Unit 1 Upper FFL RL 58.03 (Entry at FFL RL 59.53)
 - Garage FFL RL 59.90
- Building B - Fronting Lauderdale Avenue:
 - Basement car parking for four cars, storage and services (FFL RL 33.45);
 - Two x two-storey attached dwellings:
 - Unit 3 Lower: FFL RL 41.59
 - Unit 3 Upper: FFL RL 44.69
 - Unit 2 Lower: FFL RL 47.79
 - Unit 2 Upper: FFL RL 50.69
- Stormwater works; and
- Landscaping works.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 6.2 Earthworks
 Manly Local Environmental Plan 2013 - 6.4 Stormwater management
 Manly Local Environmental Plan 2013 - 6.9 Foreshore scenic protection area
 Manly Local Environmental Plan 2013 - 6.12 Essential services
 Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing
 Manly Development Control Plan - 3.4.2 Privacy and Security
 Manly Development Control Plan - 3.4.3 Maintenance of Views
 Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)
 Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation
 Manly Development Control Plan - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)
 Manly Development Control Plan - 4.1.8 Development on Sloping Sites

SITE DESCRIPTION

Property Description:	Lot 6 DP 3742 , 41 Upper Clifford Avenue FAIRLIGHT NSW 2094
Detailed Site Description:	<p>The subject site consists of one allotment located on the southern side of Upper Clifford Avenue, Fairlight with a secondary frontage to Lauderdale Ave to the south.</p> <p>The site is irregular in shape with frontages of 15.24m along Upper Clifford Avenue and 15.575m along Lauderdale Avenue, with an average depth of 50m. The site has a surveyed area of 770.2m².</p> <p>The site is located within the R1 General Residential zone and accommodates a two-storey detached dwelling.</p> <p>The site slopes steeply (approximately 18m) from north to south, and includes a mixture of vegetation types.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by detached dwelling houses and residential flat buildings of varying (multiple) levels.</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:

- Pre-lodgement Meeting PLM2019/0201 was held on 10 October 2019 discuss construction of a multi dwelling housing development.

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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.

Section 4.15 Matters for Consideration'	Comments
<p>Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)</p>	<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 this case.</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>
<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>	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and</p>

Section 4.15 Matters for Consideration'	Comments
	proposed land use.
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 9 submission/s from:

Name:	Address:
Mrs Mary Monica Thwaites	48 Upper Clifford Avenue FAIRLIGHT NSW 2094
Mr Bruno Cara	39 Upper Clifford Avenue FAIRLIGHT NSW 2094
Mr Michael John Gale Kerstin Gale	3 / 43 Upper Clifford Avenue FAIRLIGHT NSW 2094
Ms Vanessa Lansdown Andrew Keayes	50 Upper Clifford Avenue FAIRLIGHT NSW 2094
Mr Simon John Phillips Jody Phillips	42 Upper Clifford Avenue FAIRLIGHT NSW 2094
Mr Graeme Robert Plowman Mrs Jo-Ann Chris Plowman	46 Upper Clifford Avenue FAIRLIGHT NSW 2094
Mr Benedict Anselm Krupowicz	2 / 43 Upper Clifford Avenue FAIRLIGHT NSW 2094
Ms Katherine Margaret Kulaga	1 / 43 Upper Clifford Avenue FAIRLIGHT NSW 2094
Watermark Planning	PO Box 445 FORESTVILLE NSW 2087

The following issues were raised in the submissions:

- Plan and documentation deficiencies:

- Distance between new works and boundaries (and any non-compliances) are not shown.
- Wall structure type and thicknesses are not shown.
- Elevations and sections do not show reduced levels (RLs) for structures or ground, or are incorrect.
- Plans do not show roof pitch or eave width.
- Survey does not demonstrate the existing cliff on the subject site.
- Digital view perspectives and height impressions are incorrect.
- Plans show the garage fronting Upper Clifford Avenue at two different heights.
- Existing buildings on the site are not shown for comparison.
- Demolition plans are not provided.
- The height of building breaches the development standard, but no written request to vary the development standard has been provided.
- The proposal breaches the maximum number of storeys allowable.
- Excessive floor space ratio, adding bulk and scale.
- Non-compliant front and side setbacks.
- View loss resulting from the proposed built form and proposed trees.
- Concern regarding visual privacy impacts.
- Concern regarding noise impacts from the bin storage area fronting Upper Clifford Avenue.
- Concern regarding overshadowing impacts.
- Concern regarding construction traffic in Ashley Parade and Upper Clifford Avenue.
- Loss of on-street parking to Upper Clifford Avenue.
- The proposed garage fronting Upper Clifford Avenue blocks ventilation screens at 39 Upper Clifford Avenue.
- Lack of consultation with neighbours.
- Concern regarding geotechnical stability.
- The void in Building B may be converted into habitable space.
- Loss of property value.

The matters raised within the submissions are addressed as follows:

Plan and Documentation Deficiencies

Comment:

The specific matters listed in submissions as plan and documentation deficiencies are addressed as follows:

- In relation to the dimensions of a proposed development (such as setbacks and height), the Assessing Officer carries out their own measurements. These measurements are relied upon for ascertaining any non-compliances and for assessment of the proposed development.
- The wall thicknesses shown on plans are taken to be true and correct, though there is no control relating to minimum or maximum wall thickness or acceptable wall structure types to be considered as part of this assessment.
- Plans demonstrate a suitable amount of information in relation to RLs for the Assessing Officer to ascertain the heights of the development relative to the ground levels.
- Plans do not demonstrate roof pitch or eave width because a flat roof form is proposed, with no eaves.
- The survey is prepared by a registered surveyor, so can be relied upon for assessment. The survey identifies the rock cliff.
- Digital view perspectives and height impressions are for indicative purposes only, and are not relied upon for assessment.
- The submitted plans relied upon for assessment consistently demonstrate the garage fronting Upper Clifford Avenue at the same height, being 3.1m above finished floor level (equating to RL 63.00), and 1.3m lower than the garage at 39 Upper Clifford Avenue. The garage height shown

on view perspectives is not relied upon for assessment.

- Existing structures on the site are shown on the survey, site analysis plan and site plan. This provides sufficient information for the Assessing Officer to carry out a full assessment.
- Demolition plans are not considered necessary as all structures existing on site are to be demolished.

Built Form - Height / Storeys / Floor Space Ratio / Setbacks

Comment:

The proposed development compliance with the height of building development standard set by Clause 4.3 of the Manly Local Environmental Plan 2013, in accordance with the interpretation set by the NSW Land and Environment Court, which stipulates height is to be taken from the level of the land in an undisturbed state (i.e. before any excavation or fill). The proposed development is also compliant with the floor space ratio development standard set by Clause 4.4 of the Manly Local Environmental Plan 2013. The proposed development includes front setbacks to both Lauderdale Avenue and Upper Clifford Avenue that are consistent with the prevailing building lines along each frontage. The development's non-compliance with maximum number of storeys and side setbacks are addressed in the sections of this report relating to Clauses 4.1.2 and 4.1.4 of the Manly Development Control Plan 2013, respectively.

Amenity - View Loss / Privacy / Noise / Overshadowing

Comment:

The proposed development acceptable in relation to solar access, visual privacy, and view loss, as detailed in the sections of this report relating to Clauses 3.4.1, 3.4.2, and 3.4.2 of the Manly Development Control Plan 2013, respectively. The bin storage area fronting Upper Clifford Avenue is allocated to Unit 1 only, being a single dwelling. As such, use of that area will not raise any noise or traffic concerns above that expected of a single residential dwelling.

Traffic and Parking - Upper Clifford Avenue

Comment:

The Traffic Management Plan has been reviewed by Council's Traffic Engineer, who raises no concern regarding the proposed construction traffic management measures proposed, subject to conditions of consent.

Concern was raised about loss of on-street parking to Upper Clifford Avenue. The wider driveway crossing is proposed to the Upper Clifford frontage amounts to a loss of approximately one half of a parking space, but allows for an additional one off-street parking space. As such, there is greater benefit to widening the driveway to provide two off-street parking spaces.

It is understood the existing garage structure outline shown dotted on plans is incorrect, in that it is portrayed higher than in reality. However, using extrapolated reduced levels, it can be established that the proposed garage fronting Upper Clifford Avenue is proposed to be approximately 61cm above the existing garage, reaching a height of RL 63.00. The proposed garage fronting Upper Clifford Avenue is 1.27m lower than the parapet level of the existing garage at 39 Upper Clifford Avenue, and does not block the existing ventilation screens on its western facade.

Neighbour Consultation

Comment:

There is no legislative requirement for an Applicant to engage in consultation with neighbouring or surrounding properties prior to lodgement of a development application. Neighbours are notified of development applications and provided opportunity to comment via Council's notification process.

Geotechnical Stability

Comment:

The proposed development and the submitted geotechnical report have been reviewed by Council's

Development Engineer, who raises no concern about the site's stability and capability to support the proposed development, subject to conditions of consent.

Building B Void

Comment:

A condition of consent has been recommended, requiring that the void remain as such and not be used as habitable space, without prior consent.

Property Value

Comment:

Change in property value as a result of development is not a matter for consideration under the *Environmental Planning and Assessment Act 1979*.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The proposed development is for the proposed demolition of the existing site structures and the construction of multi dwelling housing on the site comprising 3 dwellings with integrated carparking and landscape works.</p> <p>Council's Landscape Referral section have assessed the application against the landscape controls of Manly DCP 2013, section 3: General Principles of Development, and section 4: Development Controls and Development Types, and specifically: 3.3.1 Landscaping Design; and 4.1.5 Open Space and Landscaping.</p> <p>A Landscape Plan and Arboricultural Impact Assessment are submitted in accordance with Council's DA Lodgement Requirements.</p> <p>The existing site landscape contains one existing Cheese Tree of a height greater than 5 metres and this has been heavily pruned in the past for views, diminishing its amenity value, and is located within the building footprint, various smaller mixed planting under 5 metres in height that are exempt species, and scattered rock outcrops. The Cheese Tree, smaller vegetation and rock outcrops are proposed for removal and a landscape scheme is proposed enhancing the landscape amenity of the site.</p> <p>The landscape component of the application is supported subject to tree protection measures to ensure the protection of existing trees within adjoining properties, and the completion of landscape works including tree planting with conditions imposed on the height of selected trees no higher than adjoining building heights, in consideration of 3.3.1 Landscaping Design b) iii) trees should be positioned in locations that minimise significant impacts on neighbours in terms of blocking winter sunlight to either living rooms, private open space or solar collectors; or where the proposed location of the tree may be otherwise positioned to minimise any significant loss of views.</p>
NECC (Development Engineering)	Development Engineering has no objection to the application subject to conditions of consent.
Road Reserve	No objection to impact on existing footpath. Development

Internal Referral Body	Comments
	Engineering to ensure requirement for Road Act approval for footpath bridging is included in the consent conditions.
Strategic and Place Planning (Urban Design)	The proposed design has addressed the issues highlighted in the Pre-Lodgement Meeting satisfactorily with reduction in: apartment yield from 4 to 3, building height, excavation and the maintenance of a single storey presentation to Upper Clifford Avenue. The proposed built forms provide appropriately for spatial separation, deep soil landscape opportunity, privacy, solar access and view sharing.
Traffic Engineer	<p>Demolition of the existing building and construct 3, three (3) bed room apartments at 41 Upper Clifford Avenue, Fairlight.</p> <p>Total area 770m²</p> <p>Traffic:</p> <ul style="list-style-type: none"> • Site has two (2) frontages about 15m <ul style="list-style-type: none"> - Upper Clifford Avenue – Northern frontage - Local Road- 2way 2 lane Rd, 50km/h - Lauderdale Avenue – Southern frontage - Regional Road • Traffic Management Plan: <p>TMP has been submitted includes demolition, excavation and construction</p> <ul style="list-style-type: none"> - Demolition – 3 weeks; max size of vehicle: Heavy Rigid 12.5m length, average 1 vehicle movements (in and out) / day - Excavation – 7 weeks; max size of vehicle: Heavy Rigid 12.5m length, average 2 vehicle movements (in and out) / day - Construction – 60 weeks; max size of vehicle: Heavy Rigid 12.5m length, average 3 vehicle movements (in and out) / day during concrete pour max 10 concrete trucks. All concrete pours within construction zone. - Ingress (Sydney Rd – Woods Pde- Hilltop Cr-Fairlight St- Ashley Pd – Upper Clifford Ave) & Egress (Ashley Pd – Hilltop Cr – Hill St- Sydney Rd) routes are ok. - Development requires 15m construction zone and B class hoarding on Upper Clifford Ave.

Internal Referral Body	Comments
	<ul style="list-style-type: none"> - Loading and unloading within the workzone at Upper Clifford Ave – Vehicles managed by traffic controllers – maintained no queuing. - No road closures. - Workers have been encouraged to use public transport. - No impacts on public transport or emergency vehicles. - Try to avoid peak hour traffic. - TCPs on different phase looks OK. However relevant permits to be obtained. - Swept paths are satisfied. <p>CTMP looks satisfactory and it should be implemented accordingly.</p> <ul style="list-style-type: none"> • Traffic generation: <p>Negligible and no concern.</p> <p>Public transport</p> <p>Available and no impacts.</p> <p>Parking:</p> <ul style="list-style-type: none"> • Required <ul style="list-style-type: none"> - Parking Rate According to Manly DCP: - 1 resident space per apartment plus - 0.5 resident spaces per 3 bed apartment plus - 0.25 visitor spaces per apartment - Spaces <ul style="list-style-type: none"> - 3 x Three-bedroom apartments = 3 X 1.5 = 4.5 spaces

Internal Referral Body	Comments
	<p>round off to 5 space</p> <p>- Visitors (3 apartments) = 0.75 space round off to 1 space</p> <p>Total required spaces = 6</p> <ul style="list-style-type: none"> • Provided 6 spaces including 1 visitor parking space • Bicycles: <p>Provision for bicycles at the residents' store area.</p> <p>Parking provisions satisfy the requirements.</p> <p>Access and circulation swept paths:</p> <ul style="list-style-type: none"> • Access: <ul style="list-style-type: none"> - Reconstructing the existing driveway at Upper Clifford Ave with a combined width of 6m. - Providing a new combined driveway of 6m wide at Lauderdale Ave. - exit/entry in a forward direction - Vehicular crossing and driveway should comply with AS2890. <p>Two (2) driveways proposed for the development. By considering the site constraints and each driveway in each frontage this can be accepted.</p> <ul style="list-style-type: none"> • Roller door at basement level. • Swept paths <ul style="list-style-type: none"> - Generally satisfied. <p>Pedestrian safety: No concerns.</p> <p>Servicing: Loading and unloading with small vehicles can use visitor parking.</p>

Internal Referral Body	Comments
	<p>Waste collection and other larger vehicles use on-street parking.</p> <p>Ongoing</p> <p>All facilities should be maintained throughout the lifetime of project.</p> <p>Conclusion</p> <p>In view of the above, the development proposal can be approved with conditions.</p>
Waste Officer	Proposal is approved with conditions.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response in an email stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

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. 1073822M dated 16 March 2020). The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	50

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid who provided a response in an email stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

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	Building A: 8.4m Building B: 7.9m	-	Yes

Floor Space Ratio	0.6:1 (462.12sqm)	0.59:1 (461.4sqm)	-	Yes
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Building A - Fronting Upper Clifford Avenue (Unit 1)

Building B - Fronting Lauderdale Avenue (Units 2 and 3)

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
4.5 Calculation of floor space ratio and site area	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes

Detailed Assessment

6.2 Earthworks

The objectives of Clause 6.2 Earthworks require development:

(a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and

(b) to allow earthworks of a minor nature without requiring separate development consent.

In this regard, before granting development consent for earthworks, Council must consider the following matters:

(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development

Comment:

The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land

Comment:

The proposal will not unreasonably limit the likely future use or redevelopment of the land.

(c) the quality of the fill or the soil to be excavated, or both

Comment:

The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment:

The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties.

Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material

Comment:

The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(f) the likelihood of disturbing relics

Comment:

The site is not mapped as being a potential location of Aboriginal or other relics.

(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area

Comment:

The site is not located in the vicinity of any watercourse, drinking water catchment or environmentally sensitive areas.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

Comment:

Conditions are included in the recommendation of this report that will minimise the impacts of the development.

6.4 Stormwater management

Under Clause 6.4 Stormwater Management, development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and

Comment:

The development will provide a suitable amount of permeable surfaces given the zoning of the land and the proposed use. In this regard, Council is satisfied that the design will maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water.

(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and

Comment:

On-site stormwater retention has been incorporated into the development.

(c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.

Comment:

The proposal has been assessed by Council's Development Engineers who have raised no objections to approval, subject to conditions. In this regard, Council is satisfied that the development will minimise any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters.

6.9 Foreshore scenic protection area

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following matters:

- (a) impacts that are of detriment to the visual amenity of harbour or coastal foreshore, including overshadowing of the foreshore and any loss of views from a public place to the foreshore,*
- (b) measures to protect and improve scenic qualities of the coastline,*
- (c) suitability of development given its type, location and design and its relationship with and impact on the foreshore,*
- (d) measures to reduce the potential for conflict between land-based and water-based coastal activities.*

Comment:

The proposed development shall have no unreasonable impact on the visual aesthetic amenity of the area. The proposed development does not unreasonably impact upon views, is suitably designed to protect and impact the scenic quality of the coastline, is suitable for the site and its relationship to the foreshore due to its design and finishes, and does not result in any conflict between land-based and water-based coastal activities.

6.12 Essential services

Under this clause, development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) stormwater drainage or on-site conservation,*
- (e) suitable vehicular access.*

Comment:

The subject site is currently supplied with water, electricity and sewage services. The proposed development is supported by suitable stormwater management and vehicular access arrangements.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 770.2sqm	Requirement	Proposed	% Variation*	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: Min. 250sqm per dwelling	3 dwellings on 770.2sqm lot (256.73sqm per dwelling)	-	Yes
	Dwelling Size: Unit 1: Min. 90sqm Unit 2: Min. 100sqm Unit 3: Min. 100sqm	Unit 1: Min. 161.3sqm Unit 2: Min. 150.6sqm Unit 3: Min. 149.5sqm	-	Yes
4.1.2.1 Wall Height	Building A East:	Building A East:	-	Yes

	Max. 8m (based on gradient >1:4) Building A West: Max. 8m (based on gradient >1:4)	3.5m to Lower Ground 6.2m to Ground Floor Building A West: 3.5m to Lower Ground 6.2m to Ground Floor		
	Building B East: Max. 8m (based on gradient >1:4) Building B West: Max. 8m (based on gradient >1:4)	Building B East: Ground Floor underground 3.2m to First Floor 5.8m to Second Floor 6.2m to Third Floor Building B West: 2.9m to Ground Floor 6.3m to First Floor 6.2m to Second Floor 9m to Third Floor	Building B East: - Building B West: 12.5% (Building B West Third Floor)	Yes No
4.1.2.2 Number of Storeys	Max. 2 Storeys	Building A: 2	-	Yes
		Building B: 6	200%	No
4.1.2.3 Roof Height	Height: Max. 2.5m	Building A: 2.1m	-	Yes
		Building B: 1.9m	-	Yes
	Pitch: Max. 35 degrees	Building A: 14.5 degrees	-	Yes
		Building B: 9.5 degrees	-	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	Building A: 0m to Garage 6m to Building	-	Yes - Consistent with streetscape
		Building B: 0m to Basement 6.1m to Building	-	Yes - Consistent with streetscape

4.1.4.2 Side Setbacks and Secondary Street Frontages	<p>Building A East: 1.17m to Lower Ground 2.07m to Ground Floor</p> <p>Building A West: 1.17m to Lower Ground 2.07m to Ground Floor</p>	<p>Building A East: 1.3m to Lower Ground 1.3m to Ground Floor 400mm to Stairs 0m to Garage</p> <p>Building A West: 2.9m to Lower Ground 2.9m to Ground Floor</p>	<p>Building A East: 37.19 to Ground 65.8% to Stairs 100% to Garage</p> <p>Building A West: -</p>	<p>Building A East: No</p> <p>Building A West: Yes</p>
	<p>Building B East: 1.17m to First Floor 1.93m to Second Floor 2.07m to Third Floor</p> <p>Building B West: 960mm to Ground Floor 2.1m to First Floor 2.07m to Second Floor 3m to Third Floor</p>	<p>Building B East: 3.4m to First Floor 3.4m to Second Floor 3.4m to Third Floor 900m to Stairs</p> <p>Building B West: 1.1m to Ground Floor 1.1m to First Floor 1.1m to Second Floor 1.8-2.6m to Third Floor</p>	<p>Building B East: 23% to Stairs</p> <p>Building B West: 47.6% to First Floor 46.8% to Second Floor 40% to Third Floor</p>	No
	Windows: Min. 3m	Min. 2.9m	3.3%	No
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Total Open Space: Min. 55% of site area (423.61sqm)	69.3% (533.6sqm)	-	Yes
	Above Ground: Max. 40% of TOS (213.44sqm)	33% (176.3sqm)	-	Yes
4.1.5.2 Landscaped Area	Landscaped Area: Min. 35% of TOS (186.76sqm)	54% (288.6sqm)	-	Yes
	3 native trees	3 trees	-	Yes
4.1.5.3 Private Open Space	18sqm per dwelling	>18sqm per dwelling	-	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Max. 50% frontage, up to 6.2m	Building A: 43.3% / 6.6m	6%	No
		Building B:	-	Yes

		39.8% / 6.2m		
Schedule 3 Parking and Access	Residential: 1 space per dwelling: 3 0.5 spaces per 3-bed dwelling: 1.5 = 2 Total: 5 spaces Visitor: 0.25 visitor spaces per dwelling; 0.75 = 1 Total: 1 space	Residential: 5 spaces Visitor: 1 space	-	Yes

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	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
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.5.8 Water Sensitive Urban Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.1 Demolition	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

Shadow diagrams for the winter solstice demonstrate that the subject site and adjacent sites are almost completely overshadowed during mid-winter, with the existing development. The proposed development results in a minor increase to that overshadowing. It should be noted that the subject site and adjacent sites are particularly vulnerable to overshadowing, particularly in winter. This is directly attributable to the orientation of the lots (being generally north-south, and the topography of the land, which falls steeply to the south. The subject sites and adjacent sites experience a significant level of self-shadowing. The proposed development is considered in relation to the relevant objectives of this clause as follows:

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

Comment:

The submitted shadow diagrams demonstrate that the proposed development will not lead to an unreasonable increase to overshadowing of the subject site or adjacent sites, attributable to the significant break in built form through the centre of the block, and compliant height and bulk. In that way, the proposed development allows equitable access to light and sunshine for the subject site and adjacent sites.

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 proposed development allows adequate sunlight to penetrate living/habitable rooms and principal outdoor areas of adjacent properties, as a result of the centre break in built form, and the compliant height and bulk.

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 proposed development modulates the bulk of the development as it steps with the topography of the land and includes a significant break in the built form through the centre of the block, as well as the compliant height and bulk.

3.4.2 Privacy and Security

The proposed development is assessed as acceptable in relation to this control. However, objections from adjoining properties raised concern about privacy. As such, the objectives are addressed in relation to development as follows:

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

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

Comment:

The proposed development is appropriately designed to minimise the loss of privacy to adjacent and nearby development with the inclusion of privacy screening where appropriate, and generally restricting the location of windows and balconies to the front and rear elevations. Where windows are orientated to the sides, they are narrow and screened, in accordance with the requirements of this control. Given these design features, the proposed development mitigates direct viewing between windows and outdoor areas of the subject site and adjacent sites.

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

Comment:

As above, the proposed development is suitably designed to provide adequate privacy for adjacent sites without compromising access to light and air for the subject site. The outlook and views from habitable rooms and private open space is balanced in that overlooking is minimised, but views from the subject site are still available.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The proposed development includes windows, balconies and terraces orientated to the street frontages, thereby encouraging awareness of neighbourhood security through passive surveillance.

3.4.3 Maintenance of Views

Nine surrounding neighbours have objected to the proposal on the grounds of view loss, from their own properties, and from the public domain. As such, the development is considered against the objectives of the control:

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

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). 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:

The objectives of the control are taken to be addressed by assessment of the relevant NSW Land and Environment Court (LEC) planning principles detailed below.

Assessment of Views - Private Property

In determining the extent of potential view loss to adjoining and nearby properties, the four planning principles outlined within the Land and Environment Court Case of *Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140*, are applied to the proposal.

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

Comment:

Step 1 is addressed collectively with Steps 2 and 3 for each individual objecting property below.

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:

Step 2 is addressed collectively with Steps 1 and 3 for each individual objecting property below.

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:

Step 3 is addressed collectively with Steps 1 and 2 for each individual objecting property below.

1 Ashley Parade, Fairlight:

The affected view is available from the ground floor living room and sun room, and the first floor master bedroom and study, from standing and seated positions, across the southern side boundary. The affected view contains other properties, North Harbour, Dobroyd Head, distant views of South Head, and the interface between those heads and the harbour. The harbour and heads are considered locally iconic elements of the view. At the ground floor of the affected property, the proposed development will likely cause the loss of the majority of the lower harbour view, but the view to Dobroyd Head, South Head and the upper portion of harbour be retained. At the first floor of the affected property, the proposed development will likely cause the loss of a small portion of the lower harbour view, but the view to Dobroyd Head, South Head, and the interface between those heads and the harbour will be retained. The overall loss of view is considered moderate, given the reasonableness of the development as detailed below at Step 4.



Above: The views from the ground floor living room (left) and sunroom (right) at 1 Ashley Parade, from a standing position, looking south towards the subject site.



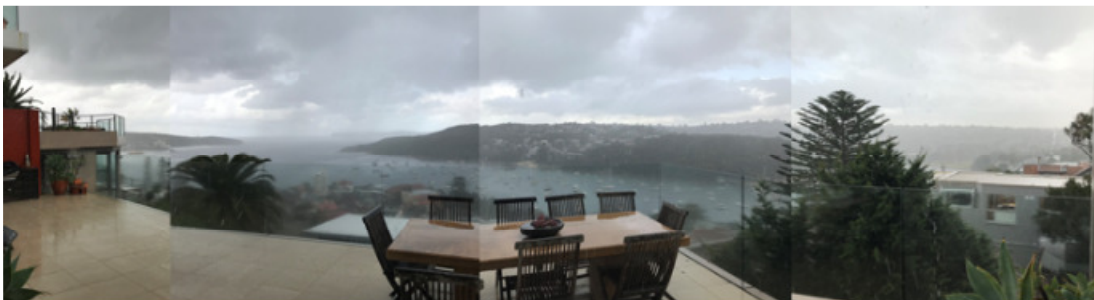
Above: The views from the first floor master bedroom (left) and study (right) at 1 Ashley Parade, from a standing position, looking south towards the subject site.

39 Upper Clifford Avenue, Fairlight

The affected view is a corridor view available from a window at the ground floor living area, from standing and seated positions, across the western side boundary. The affected view contains the existing rooftop at the subject site, North Harbour, Dobroyd Head, and the interface between the head and the harbour. The harbour and head are considered locally iconic elements of the view. The proposed development will likely cause a portion of view loss to this corridor, due to the proposed lower and upper southern balconies of Unit 1 on the subject site. However, the affected property retains a panoramic view towards the south, across the rear boundary, from standing and seated positions from the kitchen, living room, dining room, and balcony. This view contains Smedley's Point, North Head, Quarantine Station, South Head, Dobroyd Head, North Harbour, North Harbour Reserve, and the distant ocean horizon between the heads. These elements are considered iconic, and more valuable than the corridor view, as they are unobstructed and likely to remain largely unaffected in perpetuity. As such, the overall loss of view is considered negligible.



Above: The view from the ground floor living area at 39 Upper Clifford Avenue, from a standing position, looking south-west across the subject site.



Above: The whole view from the balcony of 39 Upper Clifford Avenue, from a standing position, looking south-east, south, and south-west.

42 Upper Clifford Avenue, Fairlight

The affected view is available from the master bedroom and associated terrace, from a standing position, across the southern front boundary. The affected view contains other properties, large mature trees, and largely obstructed glimpses of North Harbour and North Harbour Reserve, through the foliage of those trees. The proposed development will likely cause the loss of one of those corridor glimpses. However, the view to North Harbour Reserve will be retained. Additionally, the affected property benefits from views to Smedley's Point, North Head, Quarantine Station, and North Harbour to the south-east, which will remain unaffected by the proposed development. As such, the overall loss of view is considered negligible.



Above: The views from the master bedroom terrace at 42 Upper Clifford Avenue, from a standing position, looking south-west towards the subject site.



Above: The view from the master bedroom terrace at 42 Upper Clifford Avenue, from a standing position, looking south-east away from the subject site.

Unit 1, 43 Upper Clifford Avenue, Fairlight

There are two affected views from this property. The first affected view is a corridor view from the third bedroom, from a standing position, across the eastern side boundary. The affected view contains partial views of North Harbour, Dobroyd Head, and South Head in the distance, obscured by the existing development on the subject site, other properties, and some vegetation. The second affected view is a panoramic view towards the south across the secondary street frontage (Lauderdale Avenue), available from standing and seated positions, from the kitchen, living room, dining room and balcony. This view contains Smedley's Point, North Head, Quarantine Station, South Head, Dobroyd Head, North Harbour, North Harbour Reserve, and the distant ocean horizon between the heads. Like at 39 Upper Clifford Avenue, these elements are considered iconic, and more valuable than the bedroom corridor view, as they are unobstructed and likely to remain largely unaffected in perpetuity. The proposed development is likely to obscure only a small portion of the view, and the portion lost is of other properties only, rather than any iconic elements. As such, the overall loss of view is considered negligible.



Above: The view from the third bedroom window of Unit 1, 43 Upper Clifford Avenue, from a standing position, looking south-east to the subject site.



Above: The view from the balcony of Unit 1, 43 Upper Clifford Avenue, from a standing position, looking south-east, south, and south-west.

Unit 2, 43 Upper Clifford Avenue, Fairlight

The affected view is a panoramic view towards the south across the secondary street frontage (Lauderdale Avenue), available from standing and seated positions, from the living room and balcony. This view contains Smedley's Point, North Head, Quarantine Station, South Head, Dobroyd Head, North Harbour, North Harbour Reserve (obscured by a mature pine tree), and the distant ocean horizon between the heads. Like at Unit 1 of 43 Upper Clifford, these elements are considered iconic. However, these elements are generally unobstructed and likely to remain largely unaffected in perpetuity. The proposed development is likely to obscure only a small portion of the view towards the east, and the portion lost is of other properties only, rather than any iconic elements. As such, the overall loss of view is considered negligible.



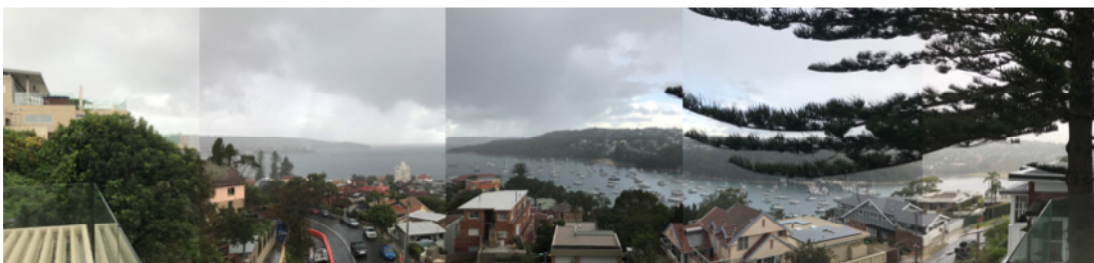
Above: The view from the balcony of Unit 2, 43 Upper Clifford Avenue, from a standing position, looking south-east, south, and south-west.

Unit 3, 43 Upper Clifford Avenue, Fairlight

There are two affected views from this property. The first affected view is from the master bedroom, from standing and seated positions, across the secondary street frontage (Lauderdale Avenue). This view contains this view contains Smedley's Point, North Head, Quarantine Station, South Head, Dobroyd Head, North Harbour, North Harbour Reserve (obscured by a mature pine tree), and the distant ocean horizon between the heads. The second affected view is a panoramic view towards the south across the secondary street frontage (Lauderdale Avenue), available from standing and seated positions, from the living room and balcony. This view contains the same elements as the master bedroom view, but in a wider capacity. Like at Units 1 and 2 of 43 Upper Clifford, these elements are considered iconic. However, these elements are generally unobstructed and likely to remain largely unaffected in perpetuity. The proposed development is likely to obscure only a small portion of the view towards the east for both available views, and the portion lost is of other properties only, rather than any iconic elements. As such, the overall loss of view is considered negligible.



Above: The view from the master bedroom of Unit 3, 43 Upper Clifford, from a standing position, looking south-east towards the subject site. It is important to note that this is not the whole view from the master bedroom. The view extends around to the south, and south-west, similar to that show below, but from a lower vantage point (as it is at the floor level below).



Above: The view from the balcony of the living room at Unit 3, 43 Upper Clifford Avenue, from a standing position, looking south-east, south, and south-west.

46 Upper Clifford Avenue, Fairlight

There are four affected views from this property. The first affected view is from the front terrace, from standing and seated positions, across the primary street frontage. This view contains South Head, Dobroyd Head, North Harbour, North Harbour Reserve, the distant ocean horizon between the heads and a small glimpse of North Head. The view is partially obstructed by mature vegetation and existing developments. The proposed development is likely to reduce the view to the harbour by approximately

half from this position, as a result of Building B. That said, the view to the remainder of the harbour, the heads and horizon is anticipated to be retained. The view may be further impacted in coming years by proposed vegetation along the northern portion of the western side boundary as it grows. The second available view is from the ground floor living room, from a standing position. The view is already predominantly obscured from a seated position. This view contains South Head, Dobroyd Head, North Harbour, and the distant ocean horizon between the heads. The proposed development is likely to result in a small portion of view loss from this position. The third affected view is a corridor view from the ground floor secondary living area, from a standing position. The view is already predominantly obscured from a seated position. This view contains a predominantly obscured view of South Head, Dobroyd Head, North Harbour, and the distant ocean horizon between the heads. The proposed development is likely to reduce the view to the harbour by approximately half from this position, as a result of Building B, and in time, vegetation. However, as above, the view to the remainder of the harbour, the heads and horizon is anticipated to be retained. The fourth view is from the first floor master bedroom, from standing and seated positions, across the primary street frontage. This view contains similar elements to the other views, though from a higher vantage point. The proposed development is likely to result in a small portion of view loss of water only, and not of heads or the horizon. The overall loss of view is considered minor for the living and bedroom areas, and moderate for the front terrace area, given the reasonableness of the development as detailed below at Step 4.



Above: The view from the front terrace of 46 Upper Clifford Avenue, from a standing position, looking south-east, south, and south-west.



Above: The view from the ground floor living room of 46 Upper Clifford Avenue, from a standing position, looking south-east.



Above: The view from the ground floor secondary living room of 46 Upper Clifford Avenue, from a standing position, looking south-east.



Above: The view from the first floor master bedroom of 46 Upper Clifford Avenue, from a standing position, looking south-east.

48 Upper Clifford Avenue, Fairlight

The affected view is from the front living/sun room and terrace, from standing and seated positions, across the primary street frontage at an angle. This view contains South Head, Dobroyd Head, North Harbour, North Harbour Reserve, the distant ocean horizon between the heads and a small glimpse of North Head. The view is partially obstructed by mature vegetation and existing developments. The proposed development is likely to reduce the view to the harbour in a minor way, as a result of Building B. However, the view to the remainder of the harbour, the heads and horizon is anticipated to be retained. The view may be further impacted in coming years by proposed vegetation along the northern portion of the western side boundary as it grows. The overall view loss is considered minor.



Above: The view from the front terrace of 48 Upper Clifford Avenue, from a standing position, looking south-east, south, and south-west.

50 Upper Clifford Avenue, Fairlight

The affected view is available from the ground floor master bedroom, and the first floor living area, from standing and seated positions, across the southern front boundary at an angle. This view contains Smedley's Point, North Head, Quarantine Station, South Head, Dobroyd Head, North Harbour, North Harbour Reserve, and the distant ocean horizon between the heads. The proposed development is likely to reduce the view to the harbour in a minor way, as a result of Building B. However, the view to the remainder of the harbour, the heads and horizon is anticipated to be retained. The view may be further impacted in coming years by proposed vegetation along the northern portion of the western side boundary as it grows. The overall view loss is considered minor.



Above: The view from the ground floor master bedroom of 50 Upper Clifford Avenue, from a standing position, looking south-east, south, and south-west.



Above: The view from the first floor living room of 50 Upper Clifford Avenue, from a standing position, looking south-east, south, and south-west.

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 subject site is currently underdeveloped, as it contains a part one-storey, part two-storey detached dwelling house on a large lot. This is particularly clear when the proposed development is viewed in the context of the adjoining and surrounding sites, which contain residential flat buildings, dual occupancies, and large-scale, multi-storey dwelling houses (in some cases, on smaller lots). It is pertinent to note that the MDCP 2013 envisages a density of one dwelling per 250sqm of land in this locality. This indicates that the site is prime for redevelopment into greater density, naturally requiring greater built form. The subject site, being 770.2sqm in area, is capable of containing three dwellings in accordance with the density control. Accordingly, this is the number of dwellings proposed in this application. Given this anticipated density, it is established that the proposed development is (at the very least, in principle) reasonable in the context of the area.

The proposed development is compliant with the height of buildings and floor space ratio development standards of the MLEP 2013. The proposed development is predominantly compliant with, and otherwise acceptable in relation to, the built form controls of the MDCP 2013, as demonstrated throughout this report. These factors indicate that the development is of a bulk, scale and footprint anticipated for the subject site. This is reinforced by the expert advice of Council's Senior Urban Designer, who supports the proposed development, stating that "the proposed built forms provide appropriately for spatial separation, deep soil landscape opportunity, privacy, solar access and view sharing". As stipulated above, where a development complies with built form controls, the question of whether a more skilful design would yield the Applicant the same development potential and amenity, while reducing the view impact is considered. An assessment of this is as follows:

The overall design is demonstrated to be generally skilful in that it includes two distinct building pavilions, separated by a generous landscaped courtyard in the centre of the site. As above, both Buildings A and B of the proposed development are compliant with the applicable height of building development standard, as they step down with the topography of the land. This design best responds to the site characteristics and constraints and limit the impacts to adjoining properties, as demonstrated throughout this report. There is one portion of the overall development that may not be considered skilful in relation to its future impact to view loss. The vegetation proposed along the northern portion of the western side boundary is comprised of some species that are expected to grow to 5-10m in height in maturity. This means, at maturity, the vegetation may further impeded on views to some properties, as noted above. This is managed by the inclusion of a recommended condition of consent requiring that vegetation along the northern half of the western side boundary be limited to species that are anticipated to grow to a maximum of 5m in height. This solution provides a reasonable level of built form softening, shade, and natural landscaping, without resulting in future undesirable impacts.

Building A, which fronts Lauderdale Avenue, is set at the southern-most portion of the site, adjacent to (and of lesser bulk than) 54 Lauderdale Avenue. Building A is skilfully designed in that the prevailing front building line is adhered to, and the majority of the building bulk is set further north from that building line, as well as partially underground. Building B, which fronts Upper Clifford Avenue, contains one dwelling, and logically appears just so. Building B consists of a double garage to the street frontage, and a two-storey dwelling house set further to the south on lower land. This is consistent with (and in fact of lesser bulk than) the predominant built form along the southern side of Upper Clifford Avenue. The design of Building B is demonstrated to be skilful in that it consolidates the required parking to the north-east corner (where the single garage currently exists), and limits the dwelling bulk visible from the streetscape to one storey. The views currently enjoyed over the subject site from properties to the north are particularly vulnerable, given they are the result of the site remaining in an underdeveloped state for an extended period of time. In this case, views can only be retained in their entirety if the site remains in its current, underdeveloped state, or if the site is redeveloped to the same density as existing. However, this does not provide the same

development potential to the Applicant, and does not achieve the development height and scale envisaged for the site, so cannot be considered skilful. Such a design response is not a reasonable or just in consideration of the anticipated density for the site, and the existing developments along Upper Clifford Avenue.

In conclusion, given the proposed development results in view loss of negligible to moderate impact only (and the moderate view loss is not reasonable to retain), the development as proposed is acceptable as proposed.

Assessment of Views - Public Domain

In determining the extent of potential view loss from the public domain, the planning principles outlined within the Land and Environment Court Case of *Rose Bay Marina Pty Limited Vs Woollahra Municipal Council and anor (213) NSWLEC 1046* are applied to the proposal.

The first step is to identify the nature and scope of the existing views from the public domain, including, but not limited to:

- *Any existing obstructions of the view;*
- *Composition of the view;*
- *Are existing obstructions permanent or temporary; and*
- *The curtilages of important elements within the view.*

Comment:

The public domain currently benefits from views from Upper Clifford Avenue to the south. The views contain North Harbour, Dobroyd Head, and distant views to South Head and the horizon of the ocean between North and South Heads (though North Head is not visible). The views are currently partially obstructed by existing developments and vegetation. The built obstructions are permanent in nature, except as proposed to be altered by this development application. The vegetation obstructions are subject to change over time. The view is somewhat static in its nature, in relation to the heads, the harbour and the horizon. However, the eastern corridor view contains the occasionally dynamic element of boat movement. The photographs below demonstrate the curtilage of the important elements of the view.



Above: The view from the median strip of Upper Clifford Avenue, from a standing position looking south.



Above: The view from the southern footpath of Upper Clifford Avenue, from a standing position at the north-eastern corner of the site looking south.



Above: The view from the median strip of Upper Clifford Avenue, from a standing position at the north-western corner of the site looking south.

The second step is to identify the locations in the public domain from which the potentially interrupted view is enjoyed.

Comment:

The affected views are available from the footpath along Upper Clifford Avenue to the north of the subject site, at the north-eastern and north-western corners of the subject site.

The third step is to identify the extent of the obstruction at each relevant location. The impact on appreciation of a public domain view should not be subject to any eye height constraint. A public domain view is one that is for the enjoyment from many positions by all people.

Comment:

The obstructions of the view corridors are not subject to eye height restrictions. A front fence exists along Upper Clifford Avenue at a height of approximately 1m. However, this fence is chain-link construction, so the view can be seen through this fence.

The fourth step is to identify the intensity of public use of those locations where enjoyment of the view will be obscured, in whole or in part, by the proposed development.

Comment:

The intensity of the use of the location for public enjoyment is unclear. On the day of assessing the view, no members of the public were seen observing the view. However, this may be as a result of the poor weather conditions on that day. Objectors noted that on a clear day (particularly in summer), a number of people walk along this street and stop to observe the view. It should be noted that this is anecdotal evidence. Upper Clifford Avenue is a no-through road for vehicles, accessible via Ashley Parade to the north. Pedestrians can access the street via Ashley Parade, or via a path connecting to Clifford Avenue to the east. However, it can be established that through traffic (both pedestrian and vehicular) is not possible, so it is unclear how often the view would be observed by those other than residents and their visitors.

The final step to be identified is whether there is any document that identifies the importance of the view to be assessed, such as international, national, state or local heritage recognition, or where the relevant planning controls promote or specifically requires the retention or protection of public domain views.

Comment:

The view contains some iconic features (Dobroyd Head, South Head and North Harbour). However, the view is not of any heritage significance, nor documented in local planning policy as of particular importance for protection.

Overall Public Domain View Comment:

The views currently enjoyed from the public domain are not likely to be retained, given the proposed development. However, as detailed above, the subject site is currently underdeveloped. The views currently enjoyed over the subject site from the public domain are particularly vulnerable, given they are the result of the site remaining in an underdeveloped state for an extended period of time. The affected views can only be retained in their entirety if the site remains in its current, underdeveloped state, or if the site is redeveloped to the same density as existing. However, this does not provide the same development potential to the Applicant, and does not achieve the development density, height and scale envisaged for the site. This cannot be considered a reasonable design response, particularly in consideration of the existing developments along Upper Clifford Avenue.

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

While the overall development is compliant with the maximum building height development standard set by Clause 4.3 Height of Buildings of the MLEP 2013, Building B includes two elements that are not compliant with the building height development controls of the MDCP 2013. Building B includes a maximum western wall height of 9m, where Clause 4.1.2.1 allows 8m, and is up to six storeys in height (stepped), where Clause 4.1.2.2 allows 2 storeys. Clauses 4.1.2.1 and 4.1.2.2 rely on the objectives of Clause 4.3 Height of Buildings of the MLEP 2013. The objectives are addressed in relation to development as follows:

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

Comment:

The proposed development is compliant with the height of building and floor space ratio development standards within Clause 4.3 and Clause 4.4 (respectively) of the MLEP 2013. The proposed development and roof form are of a comparable bulk, scale and style to existing development in the vicinity, so are complementary in the streetscape. The development is, in fact, of lesser bulk and scale than the existing developments at 39 Upper Clifford Avenue and 54 Lauderdale Avenue (when considered in conjunction for comparable lot size), as a direct result of the compliant building height, and generous central landscaped area, which assists in providing visual relief to the built form. The proposed development is also of lesser bulk and scale than the development at 43 Upper Clifford Avenue, which includes a larger building footprint, and greater overall height than the proposed development. The roof form is compliant with Clause 4.1.2.3 of the MDCP 2013 in relation to roof height, in that a flat form is proposed for each element of the development to reduce overall bulk. The

proposed development is generally compliant with the required setback controls, with the exception of some minor encroachments. These encroachments are acceptable for the reasons detailed in the section of this report relating to Clause 4.1.4 Setbacks of the MDCP 2013. As such, and in conjunction with the generous central landscaped area, the proposed development demonstrates suitable articulation of the bulk of the development.

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

Comment:

The proposed development is of an acceptable bulk and scale in that it is compliant with the development standards of the MLEP 2013, and is almost entirely compliant with the built form controls of the MDCP 2013. The proposed building bulk is demonstrated to be consistent with existing and recently approved development in the locality (as above), despite the two non-compliant height elements. The wall height non-compliance of Building B is a result of the topography of the land, which slopes away towards the west. The eastern elevation of the same building is compliant with the maximum wall height, as its corresponding ground level is higher. The total number of storeys at Building B is also a result of the topography of the land, as the development steps down the steep slope towards the south. However, the total number of storeys are generally not read, as the street level at Lauderdale Avenue, to which Building B fronts, is lower than the building itself, thereby preventing direct viewing of the whole development from the street. Further, from the side elevations, a significant portion of the development is set underground, and therefore not read. As such, the bulk and scale of the building is suitably controlled by design.

(c) to minimise disruption to the following:

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

Comment:

The proposed development is acceptable in relation to maintenance of views for the reasons detailed in the section of this report relating to Clause 3.4.3 Maintenance of Views of the MDCP 2013.

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

Comment:

The proposed development is acceptable in relation to solar access for the reasons detailed in the section of this report relating to Clause 3.4.1 Sunlight Access and Overshadowing of the MDCP 2013.

(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. The subject site is zoned R1 General Residential.

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

The proposed development includes non-compliant side setbacks to the eastern elevation of Building A, and both eastern and western elevations of Building B, as detailed in the Built Form Controls table of this report. The objectives are addressed in relation to development 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 proposed side setbacks are consistent with the existing developments within the immediate vicinity, and introduces an improved landscape treatment to the front setback area. As such, the

proposed development maintained the existing desired spatial proportions of the street, the street edge and the landscape character of the street, despite the non-compliant side setbacks.

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 sunlight access, privacy, maintenance of views and streetscape character impacts resulting from the proposed development are acceptable for the reasons detailed in the section of this report relating to Part 3 General Principles of Development of the MDCP 2013. The proposed development does not impact upon traffic conditions.

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

Comment:

The proposed development is adequately sited in order to provide an appropriate level of amenity to the subject site and adjacent sites.

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 proposed development provides adequate landscaping and planting and does not unduly detract from the context of the site. The subject site does not contain urban bushland.

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

Comment:

Not applicable. The subject site is not classified as bushfire prone land.

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

The proposed development includes a double garage (to Building A) to a total width of 6.6m, where Clause 4.1.6.1 allows a maximum width of a garage to be 50 percent of the frontage, up to a maximum width of 6.2m. The proposed development is considered in relation to the relevant controls, 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 development provides five residential parking spaces, and one visitor parking space, in exact accordance with the requirements of the MDCP 2013. Parking is configured to provide three

residential spaces for the two units fronting Lauderdale Avenue, accessed via a basement (that also contains the visitor space), and the remaining two residential spaces for the unit fronting Upper Clifford Avenue, access via a double garage. It is this double garage that is not compliant with the maximum width under this clause. Given the development's compliance with the number of parking spaces required by the MDCP 2013, it can be established that the development provides accessible and adequate parking on the site, relative to the proposed multi dwelling housing use.

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

Comment:

The creation of the two parking areas (being the basement to Lauderdale Avenue, and the widened garage to Upper Clifford Avenue) results in a loss of on-street parking of approximately two parking spaces (being just greater than one space's width on Lauderdale Avenue, and less than one space's width on Upper Clifford Avenue). However, the proposed development provides six parking spaces, being the exact required number of spaces for users of the site. As such, the development does not lead to a shortfall of parking overall, and reduces the demand for on-street parking, as all users can park on site.

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

Comment:

The proposed parking areas to both Lauderdale Avenue and Upper Clifford Avenue are designed in accordance with Council requirements, and demonstrate safe, efficient off-street vehicular access and parking. The parking areas are of designs consistent with other developments in Lauderdale Avenue and Upper Clifford Avenue, and with the remainder of the development, thereby demonstrating a suitable visual response to their respective streetscapes.

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 garage to Building B is located such that minimal excavation is required. The basement to Building A (and building A itself) requires significant excavation, as a result of the steep topography of the land. However, this design response is supported by a geotechnical report, which demonstrates risks are suitably managed. The design response has also been employed elsewhere along the street, including at 54 Lauderdale Avenue (existing) and at 52 Lauderdale Avenue (under construction).

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

Comment:

The proposed development includes two driveway crossings, being one per street frontage, which is a suitable and acceptable response.

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:

All parking spaces are screened from view, as they are located within the basement (Building B), or in the double garage (Building A). The basement to Building B is integrated into the existing sandstone wall, providing suitable surrounding natural form. The garage to Building A is offset by landscaping to its west. The proposed development limits impervious area by providing adequate open space, and consolidating parking for each street frontage.

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 proposed development is not located in a Centre. However, the proposed development limits onsite parking to the exact requirements, rather than providing excessive parking. As such, the proposal demonstrates a suitable parking response relative to its location.

4.1.8 Development on Sloping Sites

The development is assessed as consistent with this control. However, as significant excavation is proposed, the objectives are addressed in relation to development as follows:

Objective 1) To ensure that Council and the community are aware of, and appropriately respond to all identified potential landslip & subsidence hazards.

Objective 2) To provide a framework and procedure for identification, analysis, assessment, treatment and monitoring of landslip and subsidence risk and ensure that there is sufficient information to consider and determine DAs on land which may be subject to slope instability.

Objective 3) To encourage development and construction this is compatible with the landslip hazard and to reduce the risk and costs of landslip and subsidence to existing area

Comment:

The proposed development is supported by a Geotechnical Report that demonstrates the site can be developed in accordance with plans, without resulting in unreasonable risk of landslip or subsidence hazards. This Geotechnical Report has been reviewed by Council's Development Engineer, who raised no objection to the proposal, subject to conditions of consent. As such, the proposed development appropriately responds to the site's landform characteristics. The design of the proposed development (and level of excavation) is consistent with a number of existing developments and recent approvals in the immediate vicinity, including at 52 and 54 Lauderdale Avenue, being immediately to the east of the subject site.

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 \$38,000 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$3,800,000.

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

In summary, a detailed assessment has been required for the following specific issues:

- Sunlight Access and Overshadowing: Objections raised concern about potential overshadowing to adjacent properties.
- Privacy and Security: Objections raised concern about potential privacy impacts to adjacent properties.
- Maintenance of Views: Several objections raised concern about potential view loss as a result of both the built form and the landscaping, from both private and public land.
- Setbacks, Wall Height and Number of Storeys: The proposed development included minor non-compliances with the maximum wall height, number of storeys and setbacks controls.
- Vehicular Access: The proposed development includes a garage to Upper Clifford Avenue that is marginally wider than the control envisages.

Each matter is acceptable on merit for the reasons detailed in the relevant sections of this report. 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 DA2020/0302 for Demolition works and construction of multi dwelling housing on land at Lot 6 DP 3742, 41 Upper 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 Site Plan	March 2019 Issue F	Platform Architects
DA 02 Basement Floor Plan	March 2019 Issue F	Platform Architects
DA 03 Ground Floor Plan	March 2019 Issue F	Platform Architects
DA 04 First Floor Plan	March 2019 Issue F	Platform Architects
DA 05 Second Floor Plan	March 2019 Issue F	Platform Architects
DA 06 Third Floor Plan	March 2019 Issue F	Platform Architects
DA 08 Ground Floor Plan - Garden	March 2019 Issue F	Platform Architects
DA 09 First Floor Plan	March 2019 Issue F	Platform Architects
DA 10 Second Floor Plan	March 2019 Issue F	Platform Architects
DA 11 Roof Plan - Sheet 1	March 2019 Issue F	Platform Architects
DA 12 Roof Plan - Sheet 2	March 2019 Issue F	Platform Architects
DA 13 Elevation 1 South	March 2019 Issue F	Platform Architects
DA 14 Elevation 2 - North	March 2019 Issue F	Platform Architects
DA 15 Elevation 3 - South	March 2019 Issue F	Platform Architects
DA 16 Elevation 4 - North	March 2019 Issue F	Platform Architects
DA 17 Elevation 5 - North	March 2019 Issue F	Platform Architects
DA 18 Sectional Elevation 6 - East Sheet 1	March 2019 Issue F	Platform Architects
DA 19 Section Elevation 6 - East Sheet 2	March 2019 Issue F	Platform Architects
DA 20 Sectional Elevation 7 - West Sheet 1	March 2019 Issue F	Platform Architects
DA 21 Sectional Elevation 7 - West Sheet 2	March 2019 Issue F	Platform Architects
DA 22 Section AA Sheet 1	March 2019 Issue F	Platform Architects
DA 23 Section AA Sheet 2	March 2019 Issue F	Platform Architects
DA 24 Section B-B	March 2019 Issue F	Platform Architects
External Finishes Schedule	Undated	Platform Architects

Engineering Plans		
Drawing No.	Dated	Prepared By
C1 Cover Sheet & Notes	24 February 2020	ACOR Consultants
C2 Stormwater Management Plan - Basement	2 March 2020	ACOR Consultants
C3 Stormwater Management Plan - Ground	24 February 2020	ACOR Consultants
C4 Stormwater Management Plan - Ground	24 February 2020	ACOR Consultants
C5 Stormwater Management Detail Sheet No. 1	24 February 2020	ACOR Consultants

C6 Stormwater Management Detail Sheet No. 2	24 February 2020	ACOR Consultants
C7 Stormwater Management Detail Sheet No. 3	2 March 2020	ACOR Consultants
C8 Erosion & Sediment Control Plan	24 February 2020	ACOR Consultants
C9 Erosion & Sediment Control Notes	24 February 2020	ACOR Consultants
C10 Erosion & Sediment Control Detail Sheet	24 February 2020	ACOR Consultants

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. 1073822M	16 March 2020	Credwell Energy
NatHERS Certificate No. 4673150	16 March 2020	Credwell Energy
NCC Assessment Report C19314-NCC-r2	11 March 2020	Credwell Consulting
Arboricultural Impact Assessment Report	February 2020	Axiom Arbor Tree Services
Construction Methodology Plan	Undated	TQM Design & Construct
Report on Geotechnical Site Investigation	26 February 2020	Crozier Geotechnical Consultants
Traffic Management Plan	19 February 2020	PW Traffic Plans
Traffic and Parking Assessment	March 2020	Transport and Traffic Planning Associates

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
Landscape Plan	26 February 2020	Paul Scrivener Landscape Architects
Planting Plan	26 February 2020	Paul Scrivener Landscape Architects

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	March 2019	Platform 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 multi dwelling housing, defined by the Manly Local Environmental Plan 2013 as follows:

Multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

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) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) 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.
- (d) 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.
- (e) 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.

- (f) 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.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) 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.
- (k) 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.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) 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 \$38,000.00 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 \$3,800,000.00.

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 \$5,000 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.

7. **Construction, Excavation and Associated Works Security Bond**

The applicant is to lodge a Bond of \$10,000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter, any footpath works and removal of any redundant driveways required as part of this consent.

Details confirming payment of the bond are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

8. **On-slab Landscape Works**

a) 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 of the garage concrete slab, soil and planting is being provided.

b) 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.

c) The following soil depths are required to support landscaping as proposed:

- 300mm for lawn
- 600mm for shrubs
- 1000mm for trees

d) Design certification shall be submitted to the Certifying Authority by a qualified Structural Engineer, that the concrete slab is 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. **Geotechnical Report**

The applicant must submit a geotechnical report and certificate, prepared by an appropriately qualified geotechnical engineer containing the following:

- (a) certification that the existing rock formations and substrate on the site are capable of

withstanding the proposed loads to be imposed;

- (b) the extent of the proposed excavation, including any requirements for excavation methodology and shoring works that are necessary to ensure the stability of the excavation;
- (c) required protection for adjoining properties;
- (d) the provision of appropriate subsoil drainage during and upon completion of construction works.

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

Reason: To ensure the structural integrity of the subject site and adjoining sites during the excavation process.

10. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

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

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

11. **On-site Stormwater Detention Details**

The Applicant is to provide a 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 generally in accordance with the concept drainage plans prepared by Acor Consultants Pty Ltd, Project No. CC200036, drawing number C1 -C4, Rev c, dated 24/2/2020. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer.

The drainage plans must address the following:

- i. Maximum discharge to street kerb is 25 l/s

Detailed drainage plans, including engineering certification, are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

12. **Submission Roads Act Application for Civil Works in the Public Road**

An Application for Works to be approved within Council Roadway, including engineering plans is to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design of the retaining walls through the nature strip, driveway crossing and footpath which are to be

generally in accordance with the Development Application and Council's specification for engineering works - AUS-SPEC #1 and/or Council's Minor Works Policy. The plan shall be prepared by a qualified structural engineer. The design must include the following information:

- 1) The proposed retaining wall shall be designed in compliance with Australian Standard: Earth retaining Structure AS 4678-2002
- 2) An appropriate drainage system for the retaining wall shall be designed and included on the drawing
- 3) All Public and private utility services are to be located on the plan and cross-section plan. All costs related to any relocation of utility service shall be borne by the applicant.
- 4) The proposed footpath must be designed with Council's standard and satisfaction

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

Reason: To provide public and private safety.

13. **Tanking of Basement Level**

The basement area is to be permanently tanked. The Applicant is to submit structural details of the tanking, prepared by a suitably qualified Engineer. Where temporary dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the NSW Office of Environment and Heritage. The bore license must be obtained prior to commencement of dewatering works. All requirements of the NSW Office of Water are to be complied with and a copy of the approval must be submitted to the Certifying Authority. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To prevent ingress of sub-surface flows into the basement area and to comply with State Government Requirements.

14. **Structural Adequacy and Excavation Work**

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

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

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

Reason: To provide public and private safety.

15. **Shoring of Council's Road Reserve (Temporary road anchors)**

Should the proposal require shoring to support an adjoining property or Council land, the Applicant shall provide the adjoining properties with engineering drawings, detailing the proposed shoring works for their consideration and approval.

Written approval from Council under Section 138 of the Roads Act 1993 is required if temporary ground anchors are to be used within Council's road reserve. The Owner's approval is to be

submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

16. **Compliance with Standards**

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

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

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

17. **Amendment to Landscape Plan and Planting Plan**

The approved Landscape Plan and Planting Plan are to be amended to replace (where necessary) vegetation along the northern half of the western side boundary (adjacent to Unit 1) with species that are anticipated to grow to a maximum of 5m in height at maturity. Details demonstrating compliance with this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To allow reasonable sharing of views.

18. **Vehicle Access & Parking**

All internal driveways, vehicle turning areas, garages and vehicle parking space/ loading bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Off-street Parking standards). Where disabled parking spaces are provided they must be in accordance with AS2890.6:2009

With respect to this, the following revision(s) must be undertaken;

All internal driveways and vehicle access ramps must have ramp grades and transitions complying with AS 2890.1. To ensure the gradient requirements and height clearances are satisfied, a driveway profile must be prepared for all internal ramps showing ramp lengths, grades, surface RL's and overhead clearances, taken from the crest of the ramp to the base. The driveway profile must be taken along the steepest grade of travel or sections having significant changes in grades, where scraping or height restrictions could potentially occur and is to demonstrate compliance with AS 2890 for the respective type of vehicle.

Plans prepared by a suitably qualified Engineer shall be submitted to the accredited certifier prior to the issue of a Construction Certificate.

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

19. **Visitor Parking Spaces**

The installation of any security roller shutter for parking areas shall not restrict access to any designated visitor car parking space. In the event that the approved visitor car parking spaces are located behind any proposed security roller shutter, an intercom system is required to be installed to enable visitor access into the basement car parking area. This requirement is to be reflected on the Construction Certificate plans and any supporting documentation for the endorsement of the Certifying Authority prior to the release of the Construction Certificate.

Reason: To ensure visitor car parking is accessible to visitors.

20. **Waste and Recycling Requirements**

Details demonstrating compliance with Northern Beaches Development Control Plan – Part C9 Waste Management, including the required Northern Beaches Waste Management Plan, are to be submitted to and approved by the Certifying Authority prior to the issue of any Construction Certificate.

Note: If the proposal, when compliant with Northern Beaches Development Control Plan – Part C9 Waste Management, causes inconsistencies with other parts of the approval i.e. architectural or landscaped plans a modification(s) to the development may be required.

Reason: To ensure adequate and appropriate waste and recycling facilities are provided.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

21. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation):

- 54 Lauderdale Avenue
- 39 Upper Clifford Avenue
- 43 Upper Clifford Avenue

The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage arising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

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

22. **Public Liability Insurance - Works on Public Land**

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$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.

23. **Tree Removal Within the Property**

The following tree located on the property and assessed as impacted by development, and without an alternative design layout to retain the tree, as assessed and recommended in the Arboricultural Impact Assessment prepared by Axiom Arbor Tree Services, is granted approval for removal:

- Tree 5 Cheese Tree (subject to tree replacement within the site)

Note: Any request to remove a tree approved for retention under the development application is subject to a Section 4.55 modification application, or an assessment by a AQF level 5 Arborist that determines that the tree presents an imminent risk to life or property.

Exempt Species located within the site do not require consent for removal.

24. **Work Zones and Permits**

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit if it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site. Separate application is required with a Traffic Management / Control Plan for standing of construction vehicles in a trafficable lane.

Reason: To ensure Work zones are monitored and installed correctly.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

25. **Road Reserve**

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

Reason: Public safety.

26. **Survey Certificate**

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 ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) 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.

27. **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 Roads 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.

28. Excavation Works Supervision

All excavation works approved in the Construction Certificate are to be supervised by an appropriately qualified and practising geotechnical engineer. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To ensure safety of the excavation works.

29. Tree Protection Measures / Project Arborist

A Project Arborist with AQF minimum Level 5 qualification in arboriculture/horticulture is to be appointed to supervise and certify tree protection measures for existing trees to be retained and protected, requiring site attendance during excavation and construction works, in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4, and the recommendations of the Arboricultural Impact Assessment prepared by Axiom Arbor Tree Services dated February 2020.

This shall include all tree sensitive works in the vicinity of the existing trees that have been identified for retention in the Arboricultural Impact Assessment, and in particular the following trees: T1, T2, T3 and T4 (all Broad Leaf Paperbark) located on adjoining property.

The following activities as listed in the Arboricultural Impact Assessment shall be specifically supervised and certified as approved following attendance on site, review of the works and acceptance of the works. A Project Arborist shall be appointed prior to the commencement of works in accordance with the Arboricultural Impact Assessment section 6 Recommendations, including the actions detailed under the following:

- i) 6.1 Assigning a site arborist,
- ii) 6.2 Tree works,
- iii) 6.3 Tree Protection Fencing,
- iv) 6.4 Mulching within a TPZ,
- v) 6.5 Supervision of excavation works and demolition within the TPZ of protected Trees,
- vi) 6.6 Plantings within Tree Protection Zones,
- vii) 6.7 Restricted activities,
- viii) 6.8 Site Materials Storage, and
- ix) 6.9 Hold Points.

The Arborist shall submit certification to the Certifying Authority that the works and activities described in the above sections have been correctly installed and adhered to during the construction period.

The tree protection measures specified in this clause must:

- x) be in place before work commences on the site, and
- xi) be maintained in good condition during the construction period, and
- xii) remain in place for the duration of the construction works.

The Certifying Authority or a Project Arborist AQF Level 5 must ensure that:

xiii) the activities listed in section 4.2 of AS4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and

xiv) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.

Reason: To ensure tree protection is provided and maintained.

30. **Tree and Vegetation Protection - General**

a) Existing trees and vegetation shall be retained and protected as identified in the Arboricultural Impact Assessment prepared by Axiom Arbor Tree Services, including:

- i) all trees and vegetation within the site not approved for removal, excluding exempt vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties, and in particular Tree 1, 2, 3 and 4 located on the neighbouring site of 43 Upper Clifford Avenue,
- iii) all trees and vegetation within the road reserve.

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, and the recommendations of the Arboricultural Impact Assessment,
- ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF minimum Level 5 Arborist,
- iii) existing ground levels shall remain under the tree protection zone of trees to be retained, unless authorised by AQF minimum 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 minimum 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 minimum Level 5 Project Arborist on site,
- vii) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF minimum 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 minimum 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 minimum 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.

c) All protected trees are to be retained for the life of the development, or for their safe natural

life. Trees that die or are removed by approval must be replaced with a locally native canopy tree

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

31. Implementation of Traffic Management Plan

All works including Demolition, Excavation and Construction activities are to be undertaken in accordance with the approved Traffic Management Plan (TMP).

All controls in the TMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation.

Should the implementation or effectiveness of the TMP be impacted by surrounding major development not encompassed in the approved TMP, the TMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved TMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Traffic Management procedures agreed and are held liable to the conditions of consent.

32. Waste/Recycling Requirements (Waste Plan Submitted)

During demolition and/or construction the proposal/works shall be generally consistent with the approved Waste Management Plan.

Reason: To ensure waste is minimised and adequate and appropriate waste and recycling facilities are provided.

33. Waste/Recycling Requirements (Materials)

During demolition and/or construction the following materials are to be separated for recycling – timber – bricks – tiles – plasterboard – metal – concrete, and evidence of disposal for recycling is to be retained on site.

Reason: To ensure waste is minimised and recovered for recycling where possible.

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

34. Landscape Works Completion

Landscape works are to be implemented in accordance with the Landscape Plans numbered Sheet 1 of 2 and Sheet 2 of 2, prepared by Paul Scrivener Landscape, inclusive of the following requirements:

i) the proposed Tuckeroo (*Cupaniopsis anacardoides*) tree planting within the Unit 1 garden level (RL 52.15) shall be deleted and replaced with a non invasive seeding native tree suited to the site location, listed either in Manly DCP Schedule 4, Part B - Native Tree Selection, or in Council's Tree Guide, such as Blueberry Ash (*Elaeocarpus reticulatus*) or Snow-in-Summer (*Melaleuca linariifolia*), or as selected by the Landscape Architect, to attain a height of approximately 6 metres at maturity, equal to the roof parapet height of No. 43 Upper Clifford Avenue (RL 58.70), (*)

ii) the proposed Cheese Tree (*Glochion ferdinandi*) tree planting within the Unit 1 garden level (RL 52.15) shall be deleted and replaced with a native tree suited to the site location, as listed either in Manly DCP Schedule 4, Part B - Native Tree Selection, or in Council's Tree Guide, such as Blueberry Ash (*Elaeocarpus reticulatus*) or Snow-in-Summer (*Melaleuca linariifolia*), or as selected by the Landscape Architect, to attain a height of approximately 6 metres at maturity, equal to the roof parapet height of No. 43 Upper Clifford Avenue (RL 58.70), (*)

iii) the proposed Lillypilly (*Acmena smithii*) tree planting within the Unit 2 patio garden level (RL 50.79) shall be deleted and replaced with a native tree suited to the site location, as listed either in Manly DCP Schedule 4, Part B - Native Tree Selection, or in Council's Tree Guide, such as Magenta Lillypilly (*Syzygium paniculatum*), Blueberry Ash (*Elaeocarpus reticulatus*) or Riberry (*Syzygium leuhmannii*), or as selected by the Landscape Architect, to attain a height of approximately 8 metres at maturity, equal to the roof parapet height of No. 43 Upper Clifford Avenue (RL 58.70), (*)

iv) all tree planting within the site shall be planted at 75 litre container size, located within natural ground areas of substantial area (minimum 12m²) for each tree, located away from common boundaries, planted at least 4 metres from buildings for medium sized trees and at least 3 metres from buildings for small sized trees, and all at least 4 metres from all other trees.

(*) The above conditions satisfy Manly DCP clause 3.3.1 Landscaping Design, item b) iii) trees should be positioned in locations that minimise significant impacts on neighbours in terms of blocking winter sunlight to either living rooms, private open space or solar collectors; or where the proposed location of the tree may be otherwise positioned to minimise any significant loss of views.

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 Landscape Plan and any conditions of consent.

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

35. Condition of Retained Vegetation

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist with AQF minimum Level 5 qualifications in arboriculture/horticulture shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, identified as trees numbered 1, 2, 3, and 4 located within the adjoining property at No. 43, as a result of the development works, including the following information:

- i) compliance to any Arborist recommendations for tree protection and excavation works,
- ii) extent of damage sustained by vegetation as a result of the construction works,
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: To retain and protect significant planting on development sites.

36. Post-Construction Dilapidation Report

Post-Construction Dilapidation Reports for the properties listed in the condition titled 'Pre-Construction Dilapidation Report', including photos of any damage evident at the time of inspection, must be submitted after the completion of works. The reports must:

- Compare the post-construction report with the pre-construction report;
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works; and
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

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

37. Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures

The Applicant shall lodge the Legal Documents Authorisation Application with the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) to Council and a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers' certification.

The Applicant shall create on the Title a restriction on the use of land and a positive covenant in respect to the ongoing maintenance and restriction of the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction 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 the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

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 final Occupation Certificate.

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

38. Removal of Redundant Driveways

All redundant driveways shall be removed and reinstated to Council standard kerb and gutter. Suitably prepared plans shall be submitted to for an approval under and approved by Council. All costs associated with the works shall be borne by the applicant.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approval.

Reason: To maximise on street car parking by removing driveways that are no longer needed in accordance with Council policy.

39. Reconstructing Damaged Road Reserve

Any damaged Road reserve shall be reconstructed to Council standard. Suitably prepared plans shall be submitted to for an approval under and approved by Council. All costs associated with the works shall be borne by the applicant. A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approval.

Reason: To maintain road reserve to the standards.

40. Waste/Recycling Compliance Documentation

Evidence of disposal for recycling from the construction/demolition works shall be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure waste is minimised and recycled.

41. **Landscape Maintenance**

Any existing landscaping including trees required to be retained together with any additional landscaping required by this consent is 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. All planting must be maintained for the life of the development, or for their safe useful life expectancy. Planting that may die or is approved for removal must be replaced.

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

42. **Building B Void**

The void proposed in Building B (fronting Lauderdale Avenue), above the car park and below the entry level of Unit 3, is to remain a void and is not to be converted to habitable space without prior consent.

Reason: To ensure consistency with approved plans.

43. **Resident Parking Permits**

Any residents and/or tenants of the subject site are not eligible for resident parking permits. This condition is to be provided on the property Title.

Reason: To ensure the tenants are aware that they are not entitled to a permit regardless if they are within a Resident Parking Scheme (RPS).

44. **Fencing Height / Vegetation**

All fencing and/or vegetation along the frontage road(s) shall not impede pedestrian or driver visibility. This requires that vegetation does not exceed one (1) metre in height within the required splay. Appropriate plants shall be selected within the 2.0 x 2.5m splay to ensure this condition is met.

Reason: To ensure maximum vehicular and pedestrian visibility.

45. **Accessibility of Parking Facilities**

The parking facilities including visitor parking are to be accessible and identifiable at all times. Necessary signs and markings have to be maintained throughout the lifetime of the development.

Reason: To ensure residents and visitors are not forced to park on public streets when parking has been provided within the development.

46. **Parking Enclosure**

No parking spaces, or access thereto, shall be constrained or enclosed by any form of structure such as fencing, cages, walls, storage space, or the like, unless consented to under this application, or without prior consent from Council.

Reason: To ensure accessibility is maintained.