

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/1745
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Responsible Officer:	Thomas Burns
Land to be developed (Address):	Lot 4 DP 258309, 92 Addison Road MANLY NSW 2095
Proposed Development:	Alterations and additions to a semi detached dwelling
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:	Robert Albert Chapman Angela Louise Holm
Applicant:	Robert Albert Chapman Angela Louise Holm

Application Lodged:	06/01/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	18/01/2021 to 01/02/2021
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	4.4 Floor space ratio: 31.67%
Recommendation:	Approval

Estimated Cost of Works:	\$ 45,000.00
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This report is submitted to the Northern Beaches Development Determination Panel (DDP) for the consideration of Development Application DA2020/1745 for alterations and additions to an existing semi-detached dwelling.

The maximum Floor Space Ratio (FSR) for the site is 0.6:1 (187.98sqm of gross floor area). The FSR of the proposed development equates to 0.79:1 (246.2sqm of gross floor area), which represents a 31.67% variation from the FSR Development Standard. Any variations to a Principal Development Standard that exceed 10% are required to be referred to the DDP if the works pertain to Class 1 structure.

The additional gross floor area resulting from the proposed development equates to 19.11sqm. It is important to note that the additional gross floor area is confined to an existing building footprint within

the basement storage area. The FSR on the site is only increased as habitable areas within the basement level are included in gross floor area calculations, whereas basement storage is excluded. It is also important to note that the existing FSR on the site is non-compliant and measures at 0.72:1 (227.09sqm GFA), which represents a 20% variation from the FSR Development Standard.

The applicant has demonstrated that compliance with the FSR standard is both unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify the 31.67% variation to Clause 4.4 of the MLEP 2013.

The proposed development has been assessed on its merits and is found to be acceptable. Therefore, it is recommended that the DDP approve this application, subject to the conditions attached to this report.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for alterations and additions to an existing semi-detached dwelling. Specifically, the proposal comprises converting existing basement storage into a study with a bathroom. Minor demolition works are also proposed to accommodate for a door and window glazing.

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 - 4.6 Exceptions to development standards

Manly Local Environmental Plan 2013 - 5.10 Heritage conservation

Manly Local Environmental Plan 2013 - 6.9 Foreshore scenic protection area

Manly Development Control Plan - 4.1.3 Floor Space Ratio (FSR)

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

SITE DESCRIPTION

Property Description:	Lot 4 DP 258309 , 92 Addison Road MANLY NSW 2095

Detailed Site Description:

The subject site consists of one allotment located on the south-eastern side of Addison Road, Manly. Vehicular access is provided via a right of carriageway at the rear of the site, whilst pedestrian access can be obtained from the front or rear of the site.

The site is regular in shape with a frontage of 7.625m along Addison Road and a depth of 42.06m. The site has a surveyed area of 313.3sqm.

The site is located within the R1 General Residential zone pursuant to the MLEP 2013 and accommodates a part-1 part-2 storey semi-detached dwelling. The subject dwelling is identified as Heritage Item No. 175 'Group of dwellings', which is located across 57, 63, 86, 86A and 88–106 Addison Road and 16 Osbourne Road.

The site is devoid of any significant canopy trees and contains numerous shrubs and palm trees along the south-western side boundary.

The site is not burdened by any natural site constraints.

Detailed Description of Adjoining and Surrounding Development

Adjoining and surrounding development consists of low and medium density residential development, typically 1 - 3 storeys in height.

Map:

**SITE HISTORY**

The site 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 No. PLM2020/0253

A pre-lodgement meeting (PLM) was held on 5 November 2020 to discuss the proposed development. .

Application History

The Assessment Officer undertook a site visit at the subject site and examined the site's surrounds on 3 February 2021.

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 2013 applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. No additional information was requested in 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>

Section 4.15 Matters for Consideration'	Comments
	<p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan 2013 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 proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	No submissions were received.
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 from 18/01/2021 to 01/02/2021 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 of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments					
NECC (Bushland and Biodiversity)	<p>Council's Natural Environment Unit - Biodiversity referral team have reviewed the application for consistency against the relevant environmental legislation and controls, including:</p> <p>Biodiversity Conservation Act 2016 (BC Act) Manly Local Environmental Plan (MLEP)</p> <ul style="list-style-type: none">• Clause 6.5 (Terrestrial Biodiversity) <p>Manly Development Control Plan (MDCP)</p> <ul style="list-style-type: none">• Clause 3.3.1. a) iv) Landscaping Design• Clause 5.4.2 (Threatened Species and Critical Habitat Lands) <p>The proposal involves the conversion of a storage area into a study, including the reconfiguration of the room's entry. As the proposal is located wholly within the existing footprint, and does not require the removal of prescribed trees or vegetation, nor is it likely to impact on soft open space or nearby biodiversity values, the Bushland and Biodiversity referral team find the application to be consistent against relevant environmental controls.</p>					
Strategic and Place Planning (Heritage Officer)	<table><tr><th>HERITAGE COMMENTS</th></tr><tr><th>Discussion of reason for referral</th></tr><tr><td><p>The proposal has been referred to Heritage as the subject property is included in Item 175 - Group of Dwellings - 57, 63, 86, 86A and 88–106 Addison Road and 16 Osbourne Road, listed in Schedule 5 of the Manly Local Environmental Plan 2013. It also adjoins Item 12 - All Stone Kerbs and within the vicinity of heritage listed items:</p><p>Item 170 - 2 terrace houses - 59–61 Addison Road</p><p>Item 176 - Street trees - Addison Road (from Bruce Avenue to Reddall Street)</p></td></tr><tr><th>Details of heritage items affected</th></tr><tr><td><p>Details of the items as contained within the Northern Beaches heritage inventory are as follows:</p><p>tem 175 - Group of Dwellings</p></td></tr></table>	HERITAGE COMMENTS	Discussion of reason for referral	<p>The proposal has been referred to Heritage as the subject property is included in Item 175 - Group of Dwellings - 57, 63, 86, 86A and 88–106 Addison Road and 16 Osbourne Road, listed in Schedule 5 of the Manly Local Environmental Plan 2013. It also adjoins Item 12 - All Stone Kerbs and within the vicinity of heritage listed items:</p> <p>Item 170 - 2 terrace houses - 59–61 Addison Road</p> <p>Item 176 - Street trees - Addison Road (from Bruce Avenue to Reddall Street)</p>	Details of heritage items affected	<p>Details of the items as contained within the Northern Beaches heritage inventory are as follows:</p> <p>tem 175 - Group of Dwellings</p>
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<p>Details of the items as contained within the Northern Beaches heritage inventory are as follows:</p> <p>tem 175 - Group of Dwellings</p>						

Internal Referral Body	Comments		
	<p><u>Statement of significance:</u> The streetscape has major significance as a pleasing mixture of late 19th and early 20th century residential architecture of varying scale and style.</p> <p><u>Physical description:</u> This section of Addison Road contains a well maintained mixture of late 19th and early twentieth century residential development consisting of brick or rendered brick, single and two storey and semi-detached buildings. Significant elements in the streetscape include tile and slate roofs, bull nose verandahs, gables and chimneys and the mature street planting.</p> <p>Item I2 - All Stone Kerbs</p> <p><u>Statement of significance:</u> Stone kerbs are heritage listed.</p> <p><u>Physical description:</u> Sandstone kerbing to streets relating to paving and kerbing of streets in the nineteenth century. Mostly located within Manly Village area and adjacent lower slopes of Eastern Hill and Fairlight.</p> <p>Item I70 - 2 terrace houses</p> <p><u>Statement of significance:</u> Representative examples of Victorian Italianate Terrace style dwellings. An imposing and uncommon Victorian structure for local area and contribution to streetscape.</p> <p><u>Physical description:</u> A two storey Victorian Italianate terrace of two dwellings. Imposing mass and extensive cast iron decoration including front fence, make this building significant in the streetscape.</p> <p>Item I76 - Street trees - Addison Road (from Bruce Avenue to Reddall Street)</p> <p><u>Statement of significance:</u> Permanent mature street planting of late 19th century and early 20th century (from Bruce Avenue to Reddall Street)</p> <p><u>Physical description:</u> Mixture of species planted in carriageway; includes Norfolk Island Pines, Port Jackson Figs, Ficus Hilli.</p>		
	Other relevant heritage listings		
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th	No	

Internal Referral Body	Comments		
	Century Buildings of Significance		
	Other	N/A	
	Consideration of Application		
	<p>The proposal seeks consent for the conversion of an existing storage area into a study, including the reconfiguration of the room's entry and the demolition of the existing external stone wall to facilitate access and natural lighting. No excavation or modification to the existing party wall and door to the undercroft area are proposed as part of the works.</p> <p>During the pre-lodgement meeting follow-up discussions with the architect, it was agreed that the stone wall between the existing door and window would be retained to maintain the existing fenestration, however this wall is proposed to be demolished in the DA drawings. Heritage recommends this wall to be retained.</p> <p>Given the minor nature of the proposed works and being unlikely to be viewed from the street, it is considered that the impact of the proposal upon the significance of the heritage listed group of items and the heritage listed items in the vicinity will be negligible.</p> <p>Therefore, no objections are raised to the proposal subject to three conditions.</p> <p><u>Consider against the provisions of CL5.10 of Manly LEP 2013.</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? Heritage concerns have been addressed in SEE.</p>		
	Further Comments		
	<p>COMPLETED BY: Oya Guner, Heritage Advisor</p> <p>DATE: 17 February 2021</p>		

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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

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

SEPP 55 - Remediation of Land

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

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

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

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

Manly Local Environmental Plan 2013

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	no change to building height	-	Yes
Floor Space Ratio	FSR: 0.6:1 (187.98sqm GFA)	Existing 0.72:1 (227.09sqm GFA) FSR: 0.79:1 (246.2sqm GFA)	20% 31.67%	No

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	No

Clause	Compliance with Requirements
4.5 Calculation of floor space ratio and site area	Yes
4.6 Exceptions to development standards	Yes
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.5 Terrestrial biodiversity	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes

Detailed Assessment

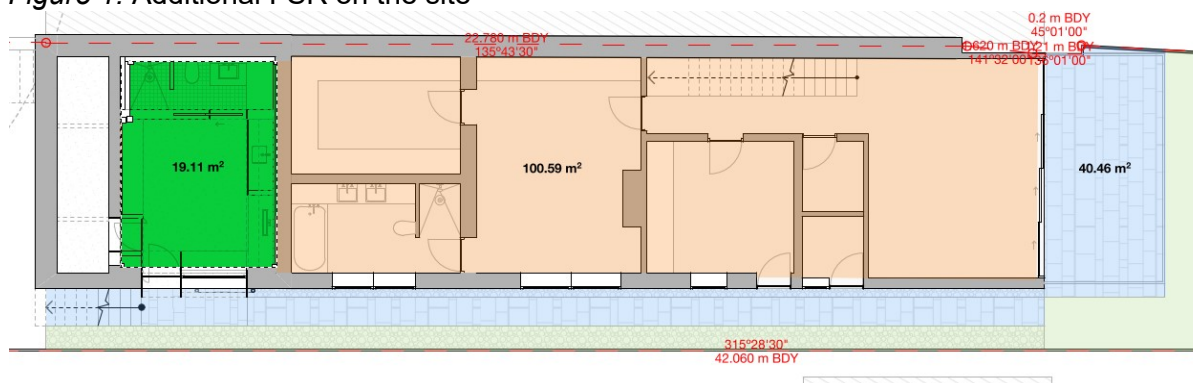
4.6 Exceptions to development standards

Description of non-compliance:

Development standard:	Floor Space Ratio
Requirement:	0.6:1
Proposed:	0.79:1
Percentage variation to requirement:	31.67%

The proposed Floor Space Ratio (FSR) for the site measures at 0.79:1 (246.2sqm GFA), which results in a 31.67% variation from the applicable FSR Development Standard of 0.6:1 (187.98sqm GFA). The additional gross floor area resulting from the proposed development equates 19.11sqm and is depicted in Figure 1 below. It is important to note that the additional gross floor area is confined to an existing building footprint within the basement storage area. The FSR on the site is only increased as habitable areas within the basement level are included in gross floor area calculations, whereas basement storage is excluded. It is also important to note that the existing FSR on the site is non-compliant and measures at 0.72:1 (227.09sqm GFA), which represents a 20% variation from the FSR Development Standard.

Figure 1: Additional FSR on the site



Assessment of request to vary a development standard:

The following assessment of the variation to Clause 4.4 Floor Space Ratio development standard, has

taken into consideration the recent judgement contained within Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61, and RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130.

Clause 4.6 Exceptions to development standards:

(1) The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment:

Clause 4.4 - Floor space ratio development standard is not expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) the concurrence of the Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) assessment:

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment:

The Applicant's written request (attached to this report as an Appendix) has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the Applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment:

In the matter of Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EPA Act, including the objects in s 1.3 of the EPA Act.'

s 1.3 of the EPA Act reads as follows:

1.3 Objects of Act(cf previous s 5)

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
- (c) to promote the orderly and economic use and development of land,
- (d) to promote the delivery and maintenance of affordable housing,
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),
- (g) to promote good design and amenity of the built environment,
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,
- (j) to provide increased opportunity for community participation in environmental planning and assessment.

The applicants written request argues, in part:

"Clause 4.6(3)(b) requires the applicant to demonstrate that there are sufficient environmental planning grounds to contravene the development standard. This section demonstrates that the impacts of the variation will be consistent with the external site impacts that may be reasonably expected by a complying development about the following:

- *The proposed development noncompliance with FSR will not result in a significant intensification of the use;*
- *The proposed alterations will not impact the dwelling's consistency with established setbacks or bulk and scale as all alterations occur within the existing building envelope;*
- *Despite the non-compliance in FSR the proposed development will provide a high level of amenity to surrounding properties, with no changes to overshadowing proposed;*
- *It will not impact on the heritage conservation of the area;*
- *The proposed development is in keeping with the desired future character of the area".*

Comment:

It is agreed that the proposed development will not result in a significant intensification of the land use, given the study will serve as an ancillary function to the semi-detached dwelling land use, with suitable conditions recommended to ensure the area is not used or converted to be used for separated habitation.

It is also accepted that the additional FSR will not impact the dwelling's consistency with established setbacks or bulk and scale, given the works are confined to an existing building footprint. The works will not be visible from the public domain and will not alter the perceived bulk and scale of the structure when viewed from public and private lands.

It is also agreed that the proposed development will not significantly detract from the amenity of adjoining properties. The works will not increase the footprint or envelope of the existing structure and therefore, will not result in additional overshadowing of adjoining properties. Furthermore, new glazing on the south-western elevation does not directly overlook into windows or private open space on the south-western adjoining site (90 Addison Road). Existing vegetation running contiguous to the south-western boundary will continue to provide a visual buffer between 92 and 90 Addison Road, although not solely relied upon for visual privacy. Furthermore, noting the works are confined to the basement level, no view impacts are anticipated to arise.

It is also accepted that the proposal will not have an adverse impact upon the heritage significance of the area, noting that Council's Heritage Officer is supportive of the proposal, subject to conditions.

For the reasons stated above, Council can be satisfied that the proposal will maintain an appropriate visual relationship with the surrounding built environment.

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying cls 1.3 (c) and (g) of the EPA Act.

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6 (3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment:

cl 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

(ii) the proposed development will be in the public interest because it is consistent with the objectives of

the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

Comment:

In considering whether or not the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Floor Space Ratio Development Standard and the objectives of the R1 General Residential zone. An assessment against these objectives is provided below.

Objectives of development standard

The underlying objectives of the standard, pursuant to Clause 4.4 – ‘Floor space ratio’ of the MLEP 2013 are:

(1) The objectives of this clause are as follows:

a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,

Comment:

The works are confined to an existing basement area and will not alter the existing building footprint and envelope. Therefore, the bulk and scale of the structure will remain unchanged when viewed from the public domain and adjoining properties.

b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,

Comment:

The works are confined to an existing building footprint and will not result in the removal of trees or significant vegetation.

c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,

Comment:

The overall footprint and envelope of the structure will remain unaltered and therefore, the proposal will continue to maintain an appropriate visual relationship with the surrounding built environment. The landscape character of the site will remain unchanged.

d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,

Comment:

As noted earlier within this report, the proposal will not result in the removal of vegetation. Furthermore, the proposal has been appropriately designed to minimise adverse amenity impacts.

e) to provide for the viability of business zones and encourage the development, expansion and

diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.

Comment:

The proposed development maintains a residential use within the R1 General Residential zone.

Zone objectives

The underlying objectives of the R1 General Residential zone are as follows:

- *To provide for the housing needs of the community.*

Comment:

The proposal is for alterations and additions to an existing semi-detached dwelling and will provide for the housing needs of the community.

- *To provide for a variety of housing types and densities.*

Comment:

The proposal maintains a residential land use within the R1 General Residential zone.

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

Comment:

The proposal continues to maintain a residential land use.

Conclusion:

For the reasons detailed above, the proposal is considered to be consistent with the objectives of the R1 General Residential zone and the FSR Development Standard.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment:

cl. 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, and in accordance with correspondence from the Deputy Secretary on 24 May 2019, Council staff under the delegation of the Development Determination Panel, may assume the concurrence of the Secretary for variations to the Floor space ratio Development Standard associated with a single dwelling house (Class 1 building).

5.10 Heritage conservation

Council's Heritage Officer has reviewed the proposal against the requirements of this clause and raised no objections, subject to a condition requiring the existing stone wall between the door and window on the south-west elevation of the lower floor to be retained, which will preserve the heritage significance of the heritage building.

6.9 Foreshore scenic protection area

The site is identified within the 'Foreshore Scenic Protection Area' pursuant to the MLEP 2013. Therefore, the provisions of this clause must be considered prior to granting consent.

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 works are visually and physically separated from the foreshore and therefore, will not have an adverse impact upon the visual qualities of the foreshore area. The works are confined to a basement area and do not increase the footprint and envelope of the existing building. Therefore, the proposal will not result in a loss of views towards the foreshore. Given the nature of the works are separation from the foreshore, the proposal will not result in conflicts between land-based and water-based activities.

Concluding Remarks

Based on the above assessment, it is concluded that the proposal demonstrates consistency with Clause 6.9 of the MLEP 2013.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 313.3sqm	Requirement	Proposed	% Variation*	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwelling per 250sqm of site area	1 dwelling on 313.3sqm site	-	Yes
	Dwelling Size: minimum 117sqm GFA required for housing density	246.2sqm GFA	-	Yes
4.1.2.1 Wall Height	North-East: N/A - Semi-detached dwelling party wall	N/A	N/A	N/A
	South-West: 7.1m (based on gradient 1:10)	no change to wall height	-	Yes

4.1.2.2 Number of Storeys	2 storeys	2 storeys - as existing	-	Yes
4.1.2.3 Roof Height	Height: 2.5m	no change to roof height	-	Yes
	Pitch: maximum 35 degrees	no change to roof pitch	-	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line or 6m	no change to front building line	-	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	North-East: N/A - Semi-detached dwelling party wall	N/A	N/A	N/A
	South-West: 2.27m (1/3 of max. wall height on SW elevation)	no change to SW side setback	-	Yes
	Windows: no windows within 3m of side boundaries	Window W-001 setback 1.545m from SW side boundary	48.5%	No
4.1.4.4 Rear Setbacks	8m	no change to rear setback	-	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area	no change to total open space	-	Yes
	Open space above ground 25% of total open space	no change to total open space above ground	-	Yes
4.1.5.2 Landscaped Area	Landscaped area 35% of open space	no change to landscaped area	-	Yes
4.1.5.3 Private Open Space	18sqm per dwelling	>18sqm - no change	-	Yes
Schedule 3 Parking and Access	Dwelling: 2 spaces	2 spaces via rear ROW	-	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
3.2 Heritage Considerations	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	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.4.3 Maintenance of Views	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 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
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	No	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)	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
5.4.2 Threatened Species and Critical Habitat Lands	Yes	Yes

Detailed Assessment

4.1.3 Floor Space Ratio (FSR)

A detailed assessment of the FSR variation has been undertaken within the section of this report relating to Clause 4.6 of the MLEP 2013. In conclusion, the applicant has adequately justified that compliance with the FSR Development Standard is unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify the variation. It is noted that the site is not an 'undersized allotment', therefore further exemptions to the FSR control are not applied.

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

Description of non-compliance

The control states that windows must not be located within 3m from side boundaries. The Window W-001 is setback 1.545m from the south-western side boundary, which fails to meet this requirement. It is important to note that the window is being installed on an existing external wall.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying

objectives of the control as follows:

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

Comment:

The overall footprint and envelope of the structure will remain unaltered and therefore, the proposal will continue to maintain an appropriate visual relationship with the surrounding built environment. The landscape character of the site will remain unchanged.

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 works will not increase the footprint or envelope of the existing structure and therefore, will not result in additional overshadowing of adjoining properties. Furthermore, new glazing on the south-western elevation does not directly overlook into windows or private open space on the south-western adjoining site (90 Addison Road). Existing vegetation running contiguous to the south-western boundary will continue to provide a visual buffer between 92 and 90 Addison Road, although not solely relied upon for visual privacy. Furthermore, noting the works are confined to the basement level, no view impacts are anticipated to arise. The works will not be visible from the street frontage and therefore, will not reduce road visibility. Overall, the proposal achieves this objective.

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

Comment:

Flexibility is afforded in this circumstance as the window is located on an existing external wall and will not result in adverse privacy impacts, notwithstanding the 3m separation requirement.

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 works do not result in the removal of deep soil landscaping or vegetation.

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

Comment:

The site is not bushfire prone.

Concluding Remarks

Having regard to the above assessment, it is concluded the objectives of the control have been achieved. Therefore, the application is supported on merit in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect 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

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

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

Council is satisfied that:

1) The Applicant's written request under Clause 4.6 of the Manly Local Environmental Plan 2013 seeking to justify a contravention of Clause 4.4 Floor Space Ratio has adequately addressed and demonstrated that:

- a) Compliance with the standard is unreasonable or unnecessary in the circumstances of the case; and
- b) There are sufficient environmental planning grounds to justify the contravention.

2) The proposed development will be in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

The proposed development involves alterations and additions to an existing semi-detached dwelling.

The FSR of the proposed development equates to 0:79:1 (246.2sqm of gross floor area), which represents a 31.67% variation from the FSR Development Standard. However, the works are confined to an existing basement footprint and do not alter the overall envelope or footprint of the existing building.

When considered on merit, the proposed development is considered to be acceptable. It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

That Northern Beaches Council as the consent authority vary Clause 4.4 Floor Space Ratio Development Standard pursuant to Clause 4.6 of the MLEP 2013 as the applicant's written request has adequately addressed the merits required to be demonstrated by subclause (3) and the proposed development will be in the public interest and is consistent with the objectives of the standard and the objectives for development within the zone in which the development is proposed to be carried out.

Accordingly Council as the consent authority grant Development Consent to DA2020/1745 for Alterations and additions to a semi detached dwelling on land at Lot 4 DP 258309, 92 Addison Road, MANLY, 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

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Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
2005_DA.01 (Revision A) - Site Analysis	14/12/2020	Lintel Studio
2005_DA.03 (Revision A) - Demolition Lower Ground Floor Plan	14/12/2020	Lintel Studio
2005_DA.05 (Revision A) - Proposed Lower Ground Floor Plan	14/12/2020	Lintel Studio
2005_DA.06 (Revision A) - East Elevation	14/12/2020	Lintel Studio
2005_DA.07 (Revision A) - Section A	14/12/2020	Lintel Studio
2005_DA.08 (Revision A) - Section B	14/12/2020	Lintel Studio
2005_DA.10 (Revision A) - Schedule of External Finishes	14/12/2020	Lintel Studio

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Assessment Ref. 33739BMrpt	21/12/2020	JK Geotechnics

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:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	9/12/2020	Lintel Studio

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

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

2. **Approved Land Use**

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a semi-detached dwelling. The *Manly Local Environmental Plan 2013* defines this land use as follows:

semi-detached dwelling means a dwelling that is on its own lot of land and is attached to only one other dwelling.

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. **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) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) 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 2018
 - (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

4. Security Bond

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required 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, and details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

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

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

5. 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.

6. Retention of the external stone wall

The existing stone wall between the door and window on the south-west elevation of the lower ground floor must be retained.

Details demonstrating compliance must be submitted to the Certifying Authority and Council prior to the issue of the Construction Certificate.

Reason: To preserve the significance of the heritage listed building.

7. Compliance with Standards

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

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

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

8. Dead or Injured Wildlife

If construction activity associated with this development results in injury or death of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

9. Removing, Handling and Disposing of Asbestos

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

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

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

10. Installation and Maintenance of Sediment Control

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

11. Protection of heritage listed street trees

The heritage listed mature tree located in the road reserve in front of the property is to be protected at all times during demolition and construction works.

Reason: To protect the heritage listed tree from damage, during demolition and construction works.

12. Protection of heritage listed stone kerb

The existing sandstone kerb is to be protected from damage during demolition and construction.

Reason: Protection and preservation of cultural resources within the Manly municipal area.

13. Protect Grassed Foraging Areas – Bandicoot Habitat

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

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

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

14. No Weeds Imported On To The Site

No Priority or environmental weeds are to be imported on to the site prior to or during construction works.

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

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

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

15. Lower Ground Floor not to be used for Separate Occupancy

The approved floor space within the lower ground floor/basement is not permitted to be used, or adapted to be used, for separate occupancy. The provision of cooking/kitchen facilities is not permitted within this area.

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