



northern
beaches
council

2018/204415

Delegated Authority Report

DA #	253/2017
Site Address	11 Beatty Street, Balgowlah Heights. Lot A in DP 373783
Proposal	Alterations and additions to the existing dwelling house.
Officer	Adam Croft

SUMMARY:

Application Lodged:

6 November 2017

Applicant:

K Reader c/- Vaughan Milligan Development Consulting Pty Ltd

Owner:

Karen Jane Reader and Nicholas Victor Reader

Estimated Cost:

\$495,000.00

Zoning:

MLEP, 2013 – R2 Low Density Residential

Heritage:

N/A

NSW LEC:

N/A

Notification:

7 November 2017 to 23 November 2017

Submissions received:

No submissions received

Site Inspected:

23 February 2018.

LEP (4.6) Variations proposed:

N/A

DCP Variations proposed:

Front Setback

Recommendation:

Approval

Subject Property and surrounding area



The subject property is commonly known as 11 Beatty Street, Balgoolwah Heights and legally known as Lot A in DP 373783. The site is located on the southern side of Beatty Street. The property has a frontage of 16.765m to Beatty Street, an average depth of 39.625m and an overall site area of 684.8m². The property currently contains a two-storey dwelling with vehicular access via an existing driveway from Beatty Street. The property slopes 3.3m from rear (south) to front (north).

The adjoining developments include detached dwellings at No. 9 and 13 Beatty Street.

The area is characterised by multi-storey detached dwellings.

Property Burdens and Constraints

A stormwater pipe and easement and sewer main run parallel to the western side boundary.

Site History/Background

No relevant site history/background.

Description of proposed development

The proposal includes works as follows:

Ground Floor

- Internal alterations resulting in kitchen, dining room, living room, rumpus room, foyer, bathroom, bedroom and study
- Demolition of existing garage and extension of deck with new storage cupboards

First floor

- Alterations and additions resulting in master bedroom with verandah, ensuite and walk in robe, and two bedrooms with shared bathroom.
- Changes to windows

External

- New driveway and double carport with gate
- Landscaping/planting including demolition of existing garden beds and construction of new planters

Internal Referrals

Engineering Comments

Council's Engineer has commented on the proposal as follows:

"Council's records indicate the development site is burdened by a 450 mm diameter council stormwater pipeline which is located on North western side of the property.

The applicant is required to demonstrate the proposed development is complied with Council's Drainage Easement Policy – D100. In general, the following details shall be submitted in the application:

- *Accurately locate, confirm dimensions including depth and plot to scale Council's stormwater pipelines and associated infrastructure on the DA site plans that outline the proposal. This should be carried out by a service locating contractor and registered surveyor. (Evidence of methodology used for locating stormwater system should be provided).*
- *All structures are to be located clear of any Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with the above-mentioned policy.*
- *Structural details prepared by a suitably qualified Civil Engineer demonstrating compliance with Council's policy are to be submitted.*

- *The policy also requires the developer to create an easement over the Council pipeline if there is not currently one in place.*

There is a significant amount of missing information and the current proposal does not comply with policy D 100. As such, Development Engineer cannot support the applicant in its current form. "

Assessing Officer's Comment: Compliance with Council's D100 policy is required to be demonstrated only prior to the issue of a Construction Certificate and the proposal has been conditioned as such. Despite this, the applicant engaged Sure Search Underground Services to locate the Council stormwater pipe as shown on the amended drawing set. Furthermore, the amended carport proposal is designed to ensure that the structure does not weight-bear onto the pipe and that access to the pipe is maintained if required.

Building Comments

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

Landscaping Comments

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

Waste Comments

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

Traffic Comments

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

Driveway Comments

Assessing Officer's Comment: No response was received from Council's Driveway Officer in relation to the proposal.

Planning Comments

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

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

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

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

The subject site is located in Zone R2 Low Density Residential under the Manly LEP 2013. The proposed development is considered permissible within the zone with consent. An assessment of the proposal against the objectives of the Zone is included below:

Zone R2 Low Density Residential

Objectives of zone

- To provide for the housing needs of the community within a low density residential environment.*

The proposed development retains the existing low density residential use.

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

N.A

Part 4 Principal development standards

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

4.	Principal Development Standards	Requirement	Proposed	Complies Yes/No	Comments
4.3	Height of buildings	8.5m	8.42m	Yes	N/A
4.4	Floor Space Ratio	0.4:1 273.92m ²	0.397:1 271.6m ²	Yes	N/A

Part 5 Miscellaneous Provisions

There are no relevant provisions of the Manly LEP 2013 to refer to as part of this assessment:

Part 6 Local Provisions

The relevant provisions of the Manly LEP 2013 are referred to below as part of this assessment:

6.	Local Provisions	Applies	Complies	Comment
6.2	Earthworks	Yes	Yes	No significant earthworks are proposed.
6.4	Stormwater Management	Yes	Yes	Subject to conditions.
6.9	Foreshore Scenic Protection Area	Yes	Yes	The proposal is for residential development consistent with the surrounding area and will have no unreasonable impacts no visual aesthetic amenity or views to and from Sydney Harbour.
6.12	Essential services	Yes	Yes	Existing at the site.

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

There is no applicable Draft Planning Instrument.

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

Manly Development Control Plan 2013

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

Part 3 General Principles of Development

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

Comment:

3.1 Streetscapes and Townscapes

Streetscape

Objective 1) To minimise any negative visual impact of walls, fences and carparking on the street frontage.

The proposed carport is an open, low-profile design with a front setback sufficient to minimise the visual impact on the streetscape.

Objective 2) To ensure development generally viewed from the street complements the identified streetscape.

The proposed works to the dwelling are set back from the existing ground floor and are consistent with the surrounding development. The streetscape includes existing examples of car parking structures within the front setback.

Objective 3) To encourage soft landscape alternatives when front fences and walls may not be appropriate.

The proposed garage 1.2m high 'Tilta Door' is to be consistent with the existing front fence and there is existing landscaped area within the front setback.

3.3.1 Landscaping Design

Objective 1) To encourage appropriate tree planting and maintenance of existing vegetation.

Council's Landscape Officer had no objections to the proposed landscape plan, subject to recommended conditions.

Objective 2) To retain and augment important landscape features and vegetation remnant populations of native flora and fauna.

No important landscape features or vegetation are proposed to be removed.

3.4.1 Sunlight Access and Overshadowing

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

The proposed development provides sufficient sunlight access to the subject site and adjoining properties. The additional impact on the subject site at 9am is negligible. At 12am there will be some minor additional overshadowing of the side setback of No. 9 Beatty Street. At 3pm the shadow of the proposed first floor addition falls only on the ground floor roof of No. 9 Beatty Street.

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.

The proposed development allows adequate sunlight to the private open spaces and windows of the subject site and adjoining properties, with no unreasonable overshadowing impacts.

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.*

The proposed additions are sufficiently modulated and set back to minimise any additional overshadowing of the subject site and adjoining properties.

3.4.2 Privacy and Security

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.*

The proposed development is appropriately designed to retain the privacy of the subject site and adjoining properties. The one window, W01, proposed to the eastern elevation is to a hallway/access area to a bedroom and is set back 3.9m from the side boundary. On the western elevation, windows W03, W04 and W05 are highlight windows and W06 and W07 face onto the rear yard and swimming pool of the subject site. The proposed rear-facing window, W05, is located forward of the pool area significantly away from the rear boundary. The proposed first floor front balcony is adequately set back from the side boundary and has shutters provided to minimise overlooking of the adjoining property's open space.

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

The proposed development provides sufficient privacy and sunlight access to the subject site and adjoining properties.

Objective 3) To encourage awareness of neighbourhood security.

The proposed development provides additional opportunities for passive surveillance.

3.4.3 Maintenance of Views

d) Planning Principle

Clause 3.4.3 of the MDCP 2013 provides the objectives for the maintenance of views, including providing for view sharing, minimisation of disruption of views, and minimising view loss and "view creep". The proposed development is considered acceptable under these objectives for reasons outlined in this section.

In this case, the Planning Principle relating to view loss has been considered as per Clause 3.4.3 Maintenance of Views of the Manly DCP 2013. The four steps of assessment of view loss as established by the NSW Land and Environment Court planning principle are addressed as follows:

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

The views available from No. 18 Fisher Street are water views over North Harbour, Fairlight and Manly, including interface between land and water. Views from the middle level rear balcony and kitchen/dining room will be retained, as shown in Figure 1 and Figure 2. The affected view is from the lower floor outdoor area, but is largely obscured by vegetation and dwellings between No. 18 Fisher Street and the foreshore, as in Figure 3. The proportion of the existing view likely to be lost as a result of the proposed development is a partial view.



Figure 1. View available from middle level rear balcony.



Figure 2. View available from kitchen/dining room.



Figure 3. View affected from lower floor outdoor area.

“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.”

The affected view from No. 18 Fisher Street is across a rear boundary and is gained from a standing position lower level outdoor area.

“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.”

The affected view from No. 18 Fisher Street is obtained from the lower level outdoor area. A partial view from this area will be lost while the primary view area from the middle level rear balcony and kitchen/dining room remains unaffected. In addition to the views from the middle level, the upper level also has views from Fairlight to the north, across Manly, North Harbour and the Pacific Ocean, to lower North Head in the east (Figure 4). Based on to the extent of the impact on views from the lower level outdoor area, the overall impact of the proposed development on views from No. 18 Fisher Street is considered to be negligible.



Figure 4. Views available from upper level balcony.

“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.”

The proposed development is non-compliant only in relation to the carport front setback, which will result in no loss of views from No. 18 Fisher Street. The proposed compliant building height and front and western side setbacks to the first floor addition successfully minimise the overall impact of the development.

Part 4 - Development Controls

Site Area:	684.8m ²	Permitted/ Required	Proposed	Complies Yes/No
Residential Density – Area D7	750m ² of site area per dwelling	684.8m ² of site area per dwelling	Existing	
Wall height eastern side	6.5m	6.39m	Yes	
Wall height western side	6.5m	Carport – 2.35m	Yes	
		Dwelling – 6m	Yes	
Number of Storeys	2	2	Yes	
Roof height	2.5m	1.67m	Yes	
Setback Front	6.0m or streetscape	Carport – 4	No (See comment)	
		Dwelling – 11.7m	Yes	
Eastern setback side	2.13m	Dwelling – 3.6m	Yes	
Western setback side	Carport – 0.78	Carport – 0.9m	Yes	
	Dwelling – 2m	Dwelling – 7.16m	Yes	
Setback Rear	8.0m	1.35m	Existing	
Open space - total	Min. 60% of Site Area (410.9m ²)	60% (411m ²)	Yes	
Open space - landscaped	Min. 40% of Total Open Space (164.4m ²)	52% (215.1m ²)	Yes	
Open space - above ground	Max. 25% of Total Open Space (102.75m ²)	13.68m ²	Yes	
Private Open Space	18m ²	18m ²	Yes	
Car Parking – Residents	2 spaces	2 spaces	Yes	
Fence height	1m solid / 1.5 with transparency	1.2m	Yes (Transparent)	

Comment:

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

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

The proposed carport is an open, low-profile structure and is set back sufficiently from the front boundary to ensure it does not unreasonably impact the streetscape.

Objective 2) To ensure and enhance local amenity by:

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

The proposed development will have no unreasonable impacts in relation to privacy, sunlight access, views, streetscape character or traffic conditions.

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

The proposed carport is an open structure of minimal bulk.

Objective 4) To enhance and maintain natural features by:

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

The proposed landscaped area is compliant and no trees are proposed to be removed.

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

The Bushfire Report submitted by the applicant is included as a consent document in the approval.

Part 5 - Special Character Areas and Sites

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

Comment:

Foreshore Scenic Protection Area

The proposal is for residential development consistent with the surrounding area and will have no unreasonable impacts no visual aesthetic amenity or views to and from Sydney Harbour.

79C(1)(a)(iia)- any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and
No planning agreement has been entered into in relation to the proposed development.

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

The relevant prescribed regulations contained within the *Environmental Planning and Assessment Regulations 2000* are addressed through the imposition of suitable conditions.

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

There is no Coastal Zone Management Plan applicable for the Manly area.

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

The proposed development as modified by the conditions of consent will not have any unreasonable impact on the natural and built environments or any unreasonable social and economic impacts in the locality.

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

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

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

The application was notified to nearby and adjoining property owners in accordance with Section 2.2 of Council's Development Control Plan 2013 with no submissions received.

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

The proposed development as modified by the conditions of consent will not have any unreasonable impact on the public interest.

S94 Contribution towards provision or improvement of amenities or services

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

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

Comments:

In this case, the proposed development will not require the provision of or increase the demand for public amenities and public services in the area. As such, the dedication of land free of cost and the payment of a monetary contribution are not required.

CONCLUSION:

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

RECOMMENDATION

That Development Application No. 253/2017 for Alterations and additions to the existing dwelling house at 11 Beatty Street, Balgowlah Heights be **approved** subject to the following conditions:-

GENERAL CONDITIONS

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

Drawings affixed with Council's 'Development Consent' stamp relating to Development Consent No. 253/2017:

Plan No. / Title	Issue/ Revision & Date	Prepared By
Sheet 02 / Site Plan	Rev. C, September 2017	Paul Carrick & Associates
Sheet 03 / Ground Floor Plan	Rev. B, September 2017	Paul Carrick & Associates
Sheet 04 / Upper Floor Plan	Rev. B, September 2017	Paul Carrick & Associates
Sheet 05 / Roof Plan	Rev. B, September 2017	Paul Carrick & Associates
Sheet 06 / Elevations – Front North & Streetscape	Rev. B, September 2017	Paul Carrick & Associates
Sheet 07 / Elevations – Side West & Section	Rev B, September 2017	Paul Carrick & Associates
Sheet 08 / Elevations Rear South & Section	Rev. B, September 2017	Paul Carrick & Associates
Sheet 09 / Elevations Side East & Section	Rev. B, September 2017	Paul Carrick & Associates
Sheet 20 / Carport Entry Floor Plan	Rev. C, September 2017	Paul Carrick & Associates

Reference Documentation relating to Development Consent No. 253/2017:

- Bushfire Report prepared by Sydney Bushfire Consultants dated 10 July 2017.
- BASIX Certificate No. A294596 dated 29 September 2017.

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

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

2. Prescribed Conditions

- All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- 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);
- 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:
 - showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - 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
 - 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.

- 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:
 - in the case of work for which a principal contractor is required to be appointed:
 - the name and licence number of the principal contractor, and

- B. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement (DACPLB09)

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) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments

Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.

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

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

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
-
- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;
Relevant legislative requirements and relevant Australian Standards (including but not limited) to:
 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.
Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

GENERAL CONDITIONS RELATING TO APPROVAL

1 (1AP04)

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

Reason: To ensure compliance with the approved development.

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

ANS01

An Erosion and Sediment Management Plan which provides adequate measures for erosion and sediment control, must be submitted with the Construction Certificate and approved by the Council/Accredited Certifier. The Erosion and Sediment Management Plan shall comply with the requirements for Erosion and Sediment Management plans contained with Clause 2.1.11 of the Manly Development Control Plan, 2013 and Manly Council's Guidelines for Sediment and Erosion Controls on Building Sites, 2005.

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

ANS02

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

ANS03

The proposal is to comply with all relevant provisions of Council's Drainage Easement Policy – D100. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure compliance with Council policy.

2 (2AP03)

Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act 1991 which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.

Reason: To advise developers of their responsibilities and to protect the interests of adjoining owners.

3 (2CD01)

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

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

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

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

4 (2CD05)

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

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

5 (2CD07)

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

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

6 (2DS01)

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

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

7 (2FP02)

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

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

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

Reason: To facilitate suitable vehicular access to private sites.

8 (2LD03)

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

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

9 (2PT02)

All driveways, car parking areas and pedestrian paths are to be suitably surfaced. Details of the treatment to these areas are to be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate.

Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff.

10 (2WM02)

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

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

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

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

11 (3BM01)

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

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

12 (3CD01)

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

Reason: To ensure compliance with statutory provisions.

13 (3CD03)

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

Reason: To protect the public interest and safety.

14 (3FP01)

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

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

15 (3LD01)

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

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

16 (3PT01)

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

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

17 (3PT02)

Applications for a construction zone on a local road require 28 days notice to Council indicating location and length. All construction zones require the approval of the Manly Traffic Committee.

Reason: To ensure Council and the Traffic Committee have sufficient time and information to assess the traffic and access implications of a proposed construction zone and to develop appropriate responses to those implications.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

18 (4FP01)

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

Reason: To ensure appropriate access and infrastructure protection.

19 (4LD02)

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

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

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

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

20 (4LD03)

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

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

21 (4LD04)

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

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

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

22 (4LD07)

Where development/construction necessitates the pruning of more than 10% of existing tree canopy, a permit application must be lodged with the Council's Civic Services Division, subject to the Tree Preservation Order 2001.

Reason: To ensure those trees are maintained appropriately and compliance with Australian Standard AS 4373:2007 – Pruning of Amenity Trees.

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

23 (5DS01)

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

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

24 (5FP01)

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

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

ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OR DEVELOPMENT

ANS04

The proposed carport is to remain as a lightweight structure that can be dismantled to allow access to the Council Stormwater Pipe located below when required. The owner of the property is responsible for any costs incurred in the removal of the carport and concrete slab in order to provide access to the pipe.

Reason: To ensure the ongoing provision of access to the Council assets located on the site.

25 (6FC01)

The erection of dividing fences under this consent does not affect the provisions of the Dividing Fences Act 1991. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.

Note: Further information can be obtained from the NSW Department of Lands. Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. More than 85% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. Contact the Community Justice Centre either by phone on 1 800 990 777 or at <http://www.cjc.nsw.gov.au/>.

Reason: To ensure the applicant is aware the Dividing Fences Act 1991 may be used to resolve disputes about dividing fences.

26 (6LP04)

Leighton Green Cypress Cupressocyparis leylandii or any of its cultivars, must not be planted on the site for the life of the development. In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views, and loss of plant diversity.

27 (6MS02)

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

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