

REPORT TO DEVELOPMENT DETERMINATION PANEL

Meeting held on 08 August 2018

16 Cliff Street Manly - Alterations and additions to a dwelling house

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/0608
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Responsible Officer:	Benjamin Price
Land to be developed (Address):	Lot 16 DP 77273, 16 Cliff Street MANLY NSW 2095
Proposed Development:	Alterations and additions to a dwelling house
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Development Determination Panel
Land and Environment Court Action:	No
Owner:	Samuel Charles Fraser Cooper Samantha Jean Black
Applicant:	Samuel Charles Fraser Cooper

Application lodged:	17/04/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	20/06/2018 to 06/07/2018
Advertised:	Not Advertised
Submissions Received:	4
Recommendation:	Approval

Estimated Cost of Works:	\$ 1,450,000.00
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ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report)

taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;

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

SUMMARY OF ASSESSMENT ISSUES

Manly Development Control Plan - 3.1 Streetscapes and Townscapes

Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing

Manly Development Control Plan - 3.4.2 Privacy and Security

Manly Development Control Plan - 3.4.3 Maintenance of Views

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

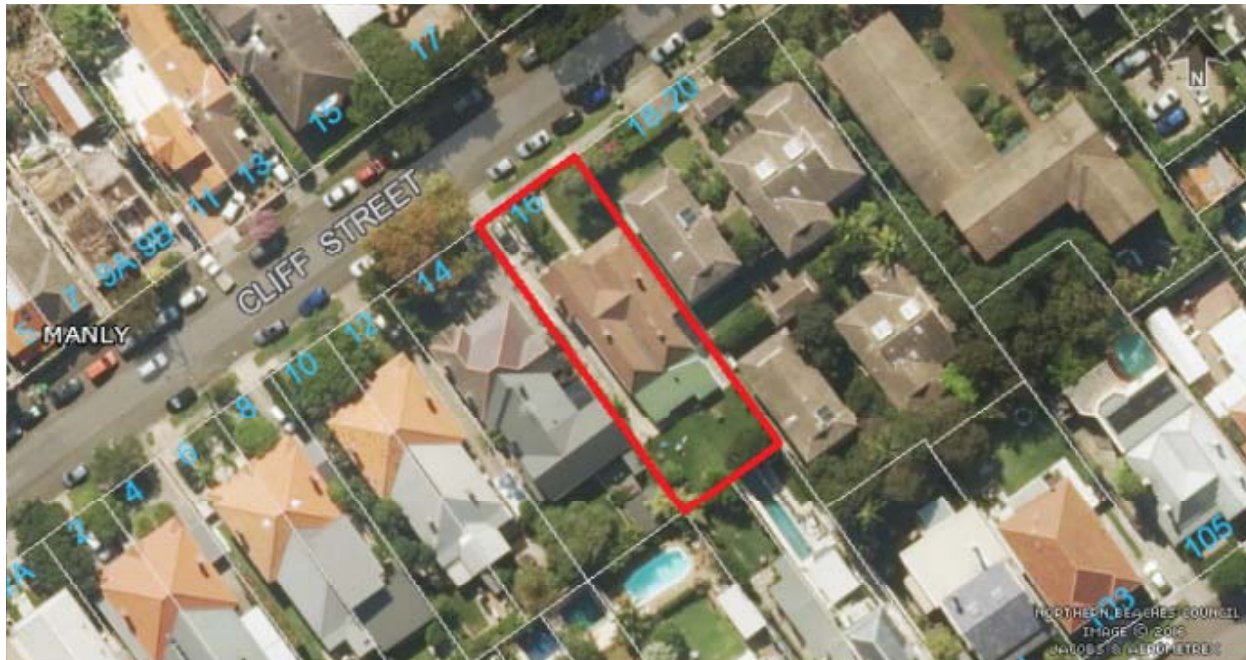
Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation

Manly Development Control Plan - 4.1.5 Open Space and Landscaping

Manly Development Control Plan - 4.4.5 Earthworks (Excavation and Filling)

SITE DESCRIPTION

Property Description:	Lot 16 DP 77273 , 16 Cliff Street MANLY NSW 2095
Detailed Site Description:	The subject site consists of one (1) allotment located on the south-eastern side of Cliff Street. The site is regular in shape with a frontage of 15.24m along Cliff Street and a depth of 46.025m. The site has a surveyed area of 701.4m². The site is located within the R1 General Residential zone and accommodates a single storey dwelling house. The site slopes from south-east to north-west and includes a cross fall of 4.9m. The site is landscaped with lawns small shrubs and some small trees. There are no significant landscape features within the development site. Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by semi-detached dwellings, multi dwelling housing, dwelling houses and residential flat buildings.



SITE HISTORY

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

DA173/2011 - Conversion of an existing single level boarding house to a dwelling house with internal alterations, additions and demolition of rear toilet.

PROPOSED DEVELOPMENT IN DETAIL

The proposal includes:

Lower Floor

- Excavation for a basement garage

Ground Floor

- Alterations to provide for lounge room, bed/study with walk in robe and ensuite, guest room, bathroom, open plan sitting kitchen dining and living with attached deck.

First Floor

- First floor addition including bedroom 1 with walk in robe ensuite and attached balcony, bathroom and two bedrooms.

Site

- Driveway to proposed garage
- Landscaping
- Fencing

Amended plans were received on the 18 June 2018 that included an amendment to the groundfloor rear deck and the provision of a pergola. The amended plans were re-notified.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (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)	<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. <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. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested. <u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application. <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.

Section 4.15 Matters for Consideration'	Comments
	Clause 98 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. Clause 98 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. Clause 143A 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.
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	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (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.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 4 submission/s from:

Name:	Address:
Colco Consulting Pty Ltd	29A Amiens Road CLONTARF NSW 2093
Bright & Duggan Strata	C/ Bright & Duggan Shop 1 / 651 Pittwater Road DEE WHY NSW 2099
Withheld Withheld	MANLY NSW 2095
Withheld	MANLY NSW 2095

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

- Visual/Acoustic Privacy and amenity
- Bulk, Height and Over development
- Streetscape
- Heritage Impact
- Non-compliance with planning controls and objectives
- Verification of Maximum Height
- Inaccuracies in perspectives and Statement of Environmental Effects
- Verification of shadow diagrams
- View Loss
- BBQ Odour impact
- Incorrectly notified
- Clarifications (Calculation plans and schedule for FSR and Height, Height Poles, boundary retaining wall, dilapidation report, privacy screening, tree and plant species, Construction barrier, sand room)
- Easement for guttering

The matters raised within the submissions are addressed as follows:

- Visual and Acoustic Privacy and amenity
Comment:
The proposal has been assessed below with regard to Clause 3.4 Amenity (Views, Overshadowing, Overlooking/Privacy, Noise) and was found to be satisfactory. In particular, the proposal was found to be of a suitable design to minimise the loss of visual and acoustic privacy within the locality.
- Bulk, Height and Over development
Comment:
The Principal Development Standards within 4.3 Height of Buildings and 4.4 Floor Space Ratio are the principal controls used to limit the bulk and scale of development on a site. The proposal is compliant with these controls. An assessment of the proposal has found that it is of a suitable bulk and scale within the locality and is not an over development of the site.
- Streetscape
Comment:
The proposal has been assessed below with regards to Clause 3.1 Streetscape of the Manly DCP 2013 and was found to be satisfactory.
- Heritage Impact

Comment:

Councils Heritage Officer has reviewed the proposal and is satisfied that the proposal will not result in any unreasonable impacts on the heritage value of the site or the adjoining property.

- Non-compliances with planning controls and objectives

Comment:

All non-compliances have been assessed below with regard to the relevant objectives. In summary the non-compliances were found to be consistent with the objectives of the controls.

- Verification of Maximum Height

Comment:

The submitted sections have been verified against the survey provided and found to be accurate. The sections are adequate to determine the maximum building height.

- Inaccuracies in perspectives and Statement of Environmental Effects

Comment:

An independent assessment has been conducted and the Statement of Environmental Effects of the perspectives has not been relied upon for this assessment.

- Verification of shadow diagrams

Comment:

The shadow diagrams have been reviewed by the assessing officer and found to be accurate. Further independent verification is not required.

- View Loss

Comment:

An assessment in accordance with the objectives of Clause 3.4.3 Maintenance of Views and the Views Planning Principle established by the NSW Land and Environment Court. In summary the assessment found the proposal to be satisfactory.

- BBQ Odour impact

Comment:

The BBQ is associated with a single dwelling and is setback 600mm from the boundary. The BBQ will not have an unreasonable impact within the locality.

- Incorrectly notified

Comment:

The re-notification of the application on the 20 June 2018 notified the application for 16 days and evidence has been supplied to Council that the notification sign was erected during this period.

- Clarifications (Calculation plans and schedule for FSR and Height, Height Poles, boundary retaining wall, dilapidation report, privacy screening, tree and plant species, Construction barrier, sand room)

Comment:

Sufficient information has been shown on the plans. Calculation plans are not required.

The survey and the information on the plans is sufficient to determine the impact of the development. As such height poles are not required.

There is an existing brick wall adjoining the existing retaining wall. This is proposed to be removed and the existing retaining wall retained.

A condition has been recommended to require a dilapidation report for 18-20 Cliff Street Manly. The first floor windows are setback 3.1m from the boundary and have a 1.35m sill height. These windows will not have an unreasonable impact on privacy. As such, a condition specifying

screening is not reasonable.

A condition is recommended to delete the tree. Subject to the deletion of this tree the proposed plantings will not unreasonably impact the neighbouring properties. A condition has been recommended requiring a suitable construction barrier.

The sand room is on the plans and included as part of this application.

- Easement for guttering

Comment:

After discussions with the applicant it was advised that there were no proposed works within the easement adjacent to the south-eastern boundary. To ensure this is clear within the consent a condition is recommended specifying that no approval is granted for works within the easement.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The landscape component of this proposal is acceptable, subject to the completion of the landscaping as shown on Landscape Plan SLP01 and SLP02 and associated conditions.
NECC (Development Engineering)	Development Engineer has no objection to the application subject to the following condition of consent.
Strategic & Place Planning (Heritage Officer)	Further to a review of the available documents and site visit, The site of proposed development is not a listed heritage item in its own right, however, it is located in the vicinity of heritage items, notably including two groups of houses in Addison Road (abutting) and in Cliff Street (adjoining), which are collectively listed as two individual items. The proposal utilises adequate architectural style, materials, finishes and details suited to the sensitive context. Given the nature of the proposal and the separation between sites, and given the favourable topography, the impact on heritage values is assessed as acceptable. Based on the above, I have no objections to this proposal from heritage perspective. Zoran Popovic Heritage adviser Land Use Planning

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

External Referral Body	Comments
	recommended.

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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A313471 dated 15 April 2018).

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

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.455m - 7.35m	N/A	Yes
Floor Space Ratio	FSR: 0.6:1 (420.84sqm)	FSR: 0.43:1 (355.9sqm)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes

Clause	Compliance with Requirements
6.5 Terrestrial biodiversity	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 701.4	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	North-East: 6.8m (based on gradient 1:20)	7.35m - 8.455m	6.6%-24.3%	No
	South-West: 6.9m (based on gradient 1:15)	7.35m - 8.455m	6.5%-22.5%	No
4.1.2.2 Number of Storeys	2	2/3	50%	No
4.1.2.3 Roof Height	Height: 2.5m	N/A - Roof included in wall height	N/A	No
	35 Degrees	40 Degrees (roof included in wall height as per DCP)	14.3%	
4.1.4.1 Street Front Setbacks	Prevailing building line 9m	11.2m Existing	N/A	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages (based on wall height)	North-east Ground Floor 1.4m - 0.9 First Floor 2.45m-2.8m	North-east Ground - Nil First Floor 3.1-3.5m	100%	No
	South-west Ground Floor 1.6m - 0.9m First Floor 2.45m-2.8m	South-west Ground Floor 2.48m - 1.08m First Floor 4.04m - 4.49m	N/A	Yes
4.1.4.4 Rear Setbacks	8m	Deck 8m Dwelling House 11.4m	N/A	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area (385.77sqm)	49% (346.6sqm)	10.2%	No
	Open space above ground 25% of total open space (86.6sqm)	10% (35.3sqm)	N/A	Yes
4.1.5.2 Landscaped Area	Landscaped area 35% of open space (121.3sqm)	70% (242.7sqm)	N/A	Yes
	3 native trees	Nil	100%	No
4.1.5.3 Private Open Space	18sqm per dwelling	177.3sqm	N/A	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m (6.2m)	6m	N/A	Yes
4.4.5 Earthworks (Excavation	Generally 1m	1.5m	50%	No

and Filling)				
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces	N/A	Yes

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
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)	No	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.10 Fencing	No	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	No	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
5.4.2 Threatened Species and Critical Habitat Lands	Yes	Yes

Detailed Assessment

3.1 Streetscapes and Townscapes

Description of non-compliance

The Manly DCP 2013 requires front fences to be a maximum height of 1.5m with the area over 1m being 30% transparent. The proposal includes a fence of 1.75m - 1.8m

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

Comment:

The proposed fence is consistent with the existing fence and will not result in any unreasonable impacts on the streetscape.

The proposed carparking is within the existing building envelope and will not impose on the streetscape.

The proposed fence and carparking is adequately designed to minimise its impact on the streetscape.

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

Comment:

The proposed first floor addition is designed to ensure it is consistent with the existing built form on the site and is situated to ensure it is not readily visible from the streetscape. The proposal will maintain the existing character of the site and will compliment the streetscape within the locality.

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

Comment:

The proposal will replace the existing front wall/fence. The proposed fence is consistent with the existing development on the site.

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

3.4.1 Sunlight Access and Overshadowing

Merit consideration:

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

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

Comment:

The proposal will result in additional overshadowing of 18-20 Cliff Street and 14 Cliff Street.

The properties at 18-20 Cliff Street have no windows facing the common boundary that will be overshadowed. The elevational shadow diagrams demonstrate that the increase in overshadowing to the private open spaces of 18-20 Cliff Street in the afternoon of the winter solstice is minor and will not significantly impact the amenity of the property.

The property at 14 Cliff Street will receive additional overshadowing of the north-eastern private open space adjoining the common boundary and the rear private open space during the morning of the winter solstice. These spaces will retain access to light during midday and the afternoon of the winter solstice. This property will maintain an adequate access to light to the private open spaces. It is noted that the private open space on the north-eastern side is susceptible to being overshadowed during the morning of the winter solstice due to its location close to the adjoining boundary.

The design of the proposed development ensures sufficient separation and articulation to ensure the the proposal maintains an equitable access to light and sunshine within the locality.

Objective 2) To allow adequate sunlight to penetrate:

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

Comment:

The proposal will result in additional overshadowing of the private open spaces of 14 Cliff Street. The proposal will not result in any unreasonable overshadowing of windows to habitable rooms of this property. This property will maintain adequate access to light and sunshine during midday and the afternoons of the winter solstice.

The proposal will result in minor overshadowing of of the private open spaces of 18-20 Cliff Street. The additional overshadowing will not significantly impact the amenity of this property. The proposal will maintain adequate sunlight access to this property.

The proposed development is designed to capture sunlight on the northern, eastern and western aspects. The proposal will receive adequate sunlight to private open spaces and windows to habitable rooms.

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

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

Comment:

The proposal is designed to maximise sunlight including mid-winter sunlight to windows, living rooms

and to principal outdoor areas.

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

3.4.2 Privacy and Security

Merit consideration:

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

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

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

Comment:

The proposal is of an appropriate form to minimise the loss of privacy within the locality.

The wall of the proposed kitchen addition adjacent to the north-eastern boundary contains no windows, is proposed mostly below the fence level of the neighbouring property and as such will not impose on the private open spaces of 18-20 Cliff Street. The sky lights to this portion of building are for light and will not result in any unreasonable overlooking of the neighbouring properties.

The proposed deck to the rear of the dwelling was amended on the 18 June 2018. The amended design provided an 8m setback to the deck and included a pergola. The deck is located below the ground level of the neighbouring property and includes a 600mm planter on the boundary. It is noted the landscape plan details a barbecue on this boundary. The applicant advised that the landscape plan was in error and that a 600mm planter is proposed on this boundary. A condition is recommended to require the landscape plan be updated with a 600mm planter on the north eastern boundary in the place of the BBQ. Due to the proposed location of the deck and pergola below the level of the dividing fence and setback 600mm from the boundary the proposal will not result in any unreasonable privacy impacts within the locality.

The proposed first floor is designed as an attic style addition. Due to this form the proposal incorporates good articulation and side boundary setbacks. The first floor windows facing the side boundaries are to a bathroom, ensuite and bedrooms. These are not entertaining spaces and all windows incorporate setbacks of 3m to a maximum setback of 4.49m. Furthermore the side boundary facing windows to the rear bedrooms have a sill height of 1.3m. This will restrict downwards overlooking of the private open space of the neighbouring properties. The neighbouring property to the north-east at 18-20 Cliff Street does not have windows facing the side boundaries. The proposal will not result in any direct viewing between windows and will not result in any unreasonable overlooking of private open spaces. The proposed first floor will not result in any unreasonable privacy impacts.

The proposal will minimise loss of privacy to adjacent and nearby development.

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

Comment:

The proposal is of an appropriate form and design to ensure no unreasonable privacy impacts and to maintain access to light and air. The proposal will achieve a balanced outlook and views from habitable rooms and private open spaces.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The proposal will encourage passive surveillance of the streetscape.

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

3.4.3 Maintenance of Views

Merit consideration:

The proposal will result in the loss of views from the first floor bedroom of 4/18-20, 5/18-20, 6/18-20 Cliff Street Manly. The development is considered against the underlying Objectives of the Control as follows:

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

Comment:

The proposal is a reasonable development and the views obstructed are vulnerable. The assessment below has considered the proposal against the Views Principle established by the NSW Land and Environment Court and was found to be satisfactory.

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

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

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

Comment:

The views lost are highly obscured views of Sydney Harbour. A site inspection was undertaken at 6/18-20 Cliff Street Manly at the request of the Owner. The view was photographed at this inspection. These

photographs have not been included in the assessment report at the request of the Owner. The photograph below is the view from 4/18-20 Cliff Street Manly.



View from 4/18-20 Cliff Street, Manly

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

Comment:

The views are obtained by overlooking the side boundary from a standing position from the first floor bedroom and attached balcony of the three rear dwellings at 18-20 Cliff Street.

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

Comment:

The bedrooms and attached balconies are the only parts of the properties that obtain the view. The

proposed development will obstruct all water views. The impact on the view is best described as devastating.

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

Comment:

The proposal is compliant with the height of buildings control and the floor space ratio control of the Manly LEP 2013. The proposal is also compliant with the rear setback control of the Manly DCP 2013. The proposal is not compliant with the roof pitch control and the wall height control. However, a first floor addition that complies with this control would still obstruct the view. The view is obtained from overlooking the side boundary through the middle of the site at a height that makes the view very difficult to retain. Due to the highly obscured nature of the view that will be lost and its vulnerability the proposed development is considered acceptable and the view sharing reasonable.

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

Comment:

The proposal was assessed above in accordance with the Views Principle established by the NSW Land and Environment Court and was found to be satisfactory.

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

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

Description of non-compliance

The Manly DCP 2013 permits a maximum wall height of 6.8m-6.9m and a maximum roof pitch of 35 degrees. The Manly DCP also specifies that a roof with a pitch greater than 35 degrees is to be included in the wall height calculation. The proposal has a roof pitch of 40 degrees and subsequently has a wall height of 7.35m-8.455m.

Merit consideration:

The Manly DCP 2013 does not contain objectives relating to this control but refers to the objectives of Clause 4.3 Height of Buildings of the Manly LEP 2013 as having particular relevance. With regard to the consideration for a variation, the development is considered against the relevant objectives as follows:

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

Comment

The proposed roof form has been designed to ensure it retains the roof form and the heritage character of the existing building. The proposed first floor addition is adequately setback from the street to ensure it is not readily visible from the streetscape. The proposal is compliant with the building height control and is appropriately designed to retain the streetscape character in the locality.

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

Comment:

The proposal complies with the height of building and the floor space ratio development standard of the Manly LEP 2013. These development standards are designed to control the bulk and scale of development within the locality. Furthermore, the proposed attic style addition results in greater side boundary setbacks and a minimised bulk and scale. The proposal is not of an unreasonable bulk or scale in the locality.

(c) to minimise disruption to the following:

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

Comment

The proposal has been assessed with regard to the Views Planning Principle established by the NSW Land and Environment Court and was found to be satisfactory. For details see above assessment.

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

Comment

The attic style first floor addition incorporates good articulation and setbacks to ensure it does not result in any unreasonable overshadowing of the neighbouring properties. The proposal has been assessed with regard to the objectives of Clause 3.4.1 Sunlight Access and Overshadowing of the Manly DCP 2013 and was found to be satisfactory.

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

Comment

Not applicable.

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

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

Description of non-compliance

The Manly DCP 2013 requires a side setback of 1/3 of the wall height. The proposed south-west kitchen wall provides a 0.25m side setback.

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 proposed non-compliance is set to the rear of the existing development and will not result in any unreasonable impact on the spatial proportions of the street.

Objective 2) To ensure and enhance local amenity by:

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

Comment:

The proposal will ensure the amenity within the locality for the following reasons:

- The proposed non-compliant wall contains no windows facing the side boundary and is located mostly below the existing fence level. The skylights in this part of the building are for light and will not result in any unreasonable overlooking. The proposed non-compliance will not result in any unreasonable impacts on privacy.
- The proposed non-compliant wall will not result in any additional overshadowing of the neighbouring properties.
- The proposal has been assessed in accordance with Clause 3.4.3 Maintenance of Views of the Manly DCP 2013 and the Views Planning Principle established by the NSW Land and Environment Court and was found to be satisfactory.
- The proposal will not disrupt any rhythm or pattern of spaces between buildings.
- The proposal will maintain safe and adequate traffic conditions within the locality.

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

Comment:

The proposed flexibility will not result in any unreasonable impacts on the amenity of the locality and is consistent with the objectives of the control.

Objective 4) To enhance and maintain natural features by:

- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native*

vegetation and native trees;

- *ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
- *ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

Comment:

The proposal maintains adequate landscaped area on the site to ensure the landscape character of the locality is retained.

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

Comment:

Not applicable

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

4.1.5 Open Space and Landscaping

Description of non-compliance

The Manly DCP 2013 requires 55% of the site area to be provided as total open space and 3 native trees, as specified, to be planted on the site. The proposal includes 49% of the site area as total open space and does not identify the species of trees to be planted.

Merit consideration:

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

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

Comment:

The proposal does not include the removal of any important landscape features or vegetation.

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

Comment:

The proposal provides far greater than required soft landscaped areas and Councils Landscape Officer has recommended a condition to require appropriate tree planting. The open space at ground level is adequate to service the dwelling.

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

Comment:

The proposal has been assessed above with regard to amenity and was found to maintain an appropriate level of amenity for the site, the streetscape and the surrounding area. It is noted the amended landscape plan was not amended to remove the feature tree on the north-eastern boundary. This tree is likely to result in unreasonable shadowing impacts to the neighbouring property. It is recommended this tree be deleted by way of condition.

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

Comment:

The proposed landscaped area is sufficient to maximise water infiltration on the site. Councils Stormwater Engineer has recommended appropriate conditions of consent to ensure stormwater is appropriately disposed of.

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

Comment:

The proposal will minimise the spread of weeds.

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

Comment:

The proposal includes sufficient landscaping to maximise wildlife habitat.

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

4.4.5 Earthworks (Excavation and Filling)

Description of non-compliance

The Manly DCP 2013 limits excavation to generally 1m with the exception of basement parking. The proposal includes excavation of up to 1.5m for the pedestrian and vehicle access.

Merit consideration:

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

Objective 1) To retain the existing landscape character and limit change to the topography and vegetation of the Manly Local Government Area by:

- *Limiting excavation, “cut and fill” and other earthworks;*
- *Discouraging the alteration of the natural flow of ground and surface water;*
- *Ensuring that development not cause sedimentation to enter drainage lines (natural or otherwise) and waterways; and*
- *Limiting the height of retaining walls and encouraging the planting of native plant species to soften their impact.*

Comment:

The proposal excavation will not significantly alter the topography of the locality. The proposal includes suitable landscaping to maintain the landscape character of the locality and soften the impact of retaining walls. The proposal was supported by a geotechnical assessment report that determined the proposal could be carried out without unreasonable impacts to the locality. The proposal is of a suitable design to retain the existing landscape character and limit the change to the topography.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Manly Section 94 Development Contributions Plan

S94 Contributions are not applicable to 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

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

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/0608 for Alterations and additions to a dwelling house on land at Lot 16 DP 77273, 16 Cliff Street, 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

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Site Demolition and Bulk Excavation Plan Revision A	8/04/2018	Design Intent Pty Ltd
Existing and Demolition Ground Plan Revision A	9/04/2018	Design Intent Pty Ltd
Site Plan Revision B	18/06/2018	Design Intent Pty Ltd
Detail Site Plan Revision B	18/06/2018	Design Intent Pty Ltd
Lower Floor Plan Revision A	9/04/2018	Design Intent Pty Ltd
Ground Floor Plan Revision B	18/06/2018	Design Intent Pty Ltd
Upper Floor Plan Revision B	18/06/2018	Design Intent Pty Ltd
Streetscape Elevation Revision A	9/04/2018	Design Intent Pty Ltd
North East Elevation Revision B	18/06/2018	Design Intent Pty Ltd
South East Elevation Revision B	18/06/2018	Design Intent Pty Ltd
South West Elevation Revision B	18/06/2018	Design Intent Pty Ltd
Section B-B Revision B	18/06/2018	Design Intent Pty Ltd
Section Revision A	9/04/2018	Design Intent Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:

Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate A313471	15 April 2018	Design Intent P/L
Geotechnical Assessment	14 June 2018	Douglas Partners

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
SLP01 Sketch Landscape Plan - Front - Revision A	22/03/2018	GoodManors
SLP02 Sketch Landscape Plan - Back - Revision A	22/03/2018	GoodManors

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. (DACPLB01)

2. Amendments to the approved plans

The following amendments are to be made to the landscape plan SLP01 Sketch Landscape Plan - Back, dated 21/03/2018 prepared by GoodManors:

- The feature tree on the north-eastern boundary is to be deleted.
- The BBQ Area is to be deleted and a 600mm wide planter box is to be provided on the north eastern boundary in the location of the BBQ area.

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

Reason: To ensure development minimises unreasonable impacts upon surrounding land. (DACPLB02)

3. No Approval for Works Within Easement

No approval is granted under this Development Consent for any works within the easement adjacent to the north-eastern boundary.

Reason: To ensure compliance with this consent. (DACPLB04)

4. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

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

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

5. 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. (DACPLB10)

FEES / CHARGES / CONTRIBUTIONS

6. Security Bond

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

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

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

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

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

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

7. **Stormwater Disposal**

Stormwater shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's MANLY SPECIFICATION FOR ON-SITE STORMWATER MANAGEMENT 2003. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with the Council's specification are to be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate.

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

8. **Vehicle Crossings Application**

An application for Driveway levels shall be made with Council subject to the payment of fee applicable at the time of payment. The fee includes all Council inspections relating to the driveway construction and must be paid. Approval is to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To facilitate suitable vehicular access to private property

9. **External Finishes to Roof**

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. (DACPLC03)

10. **Sewer / Water Quickcheck**

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)

11. **Dilapidation Survey**

A photographic survey of adjoining property (being 18-20 Cliff Street, Manly) detailing the physical condition of those properties, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, SHALL BE submitted to Council/Accredited Certifier prior to the issue of a Construction Certificate. This survey is to be prepared by an appropriately qualified person.

On completion of the excavation and building works and prior to occupation of the building, a certificate prepared by the appropriately qualified person to the effect that no damage has resulted to adjoining premises, is to be provided to the Principal Certifying Authority.

If damage is identified by the appropriately qualified person which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible and prior to a final Occupation Certificate being issued.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent. In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate, in writing, to the satisfaction of Council/Accredited Certifier that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

(Note: This documentation is for record keeping purposes only, and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible)

Reason: Proper management of records. (DACPLCPCC1)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

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

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Warringah Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

13. **Vehicle Crossings**

The provision of a vehicle crossing 3 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 N and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property

14. **Maintenance of Road Reserve**

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

Reason: Public Safety.

15. **Maintenance of Sediment**

Sedimentation and erosion controls are to be effectively maintained at all times during the course of construction and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction.

Reason: To ensure sediment controls are effective

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

16. **Reinstatement of Kerb**

All redundant laybacks and vehicular crossings shall be reinstated to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To facilitate the preservation of on street parking spaces

17. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

18. **Landscape Completion**

24 (5LD01)

A qualified Landscape Consultant is to submit a Certificate of Practical Completion to the Certifying Authority prior to the issue of the Occupation Certificate, stating the work has been carried out in accordance with the approved Landscape Drawing and a maintenance program has been established.

(Viburnum) and SLP02 (Syzygium Australe) shall be planted no more than 750mm apart and installed as pot size of 45 litres.

The proposed feature trees shown on SLP01 and SLP02 are to be pot size 200 litres.

Reason: This is to ensure the landscaping is planted in accordance with the drawing and maintained appropriately and that amenity screening is achieved

19. **Required Tree Planting**

3 (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, and schedule 4, Part B, Native Tree Selection. Details are to be submitted with the Construction Certificate to the satisfaction of the Certifying Authority.

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

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

20. **Landscape maintenance**

25 (5LD02)

Evidence of an agreement for the maintenance of all plants for a period of twelve (12) months from the date of practical completion of the building is to be provided to the Certifying Authority prior to issue of the final Occupation Certificate.

Reason: To ensure landscaping will be appropriately maintained.