

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/0598
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Responsible Officer:	Luke Perry
Land to be developed (Address):	Lot 2 SP 80544, 2 / 60 Pittwater Road MANLY NSW 2095 Lot 1 SP 80544, 1 / 60 Pittwater Road MANLY NSW 2095
Proposed Development:	Alterations and additions to the existing dual occupancy
Zoning:	Manly LEP2013 - Land zoned R3 Medium Density Residential Manly LEP2013 - Land zoned R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Sarah Louise Skinner Simon Patrick Halpin Virginie Cecile Mary Halpin
Applicant:	Sarah Louise Skinner Simon Patrick Halpin Virginie Cecile Mary Halpin

Application lodged:	16/04/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	02/05/2018 to 18/05/2018
Advertised:	Not Advertised
Submissions Received:	4
Recommendation:	Approval

Estimated Cost of Works:	\$ 434,500.00
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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 Local Environmental Plan 2013 - 4.6 Exceptions to development standards

Manly Development Control Plan - 3.4.2 Privacy and Security

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

SITE DESCRIPTION

Property Description:	Lot 2 SP 80544 , 2 / 60 Pittwater Road MANLY NSW 2095 Lot 1 SP 80544 , 1 / 60 Pittwater Road MANLY NSW 2095
Detailed Site Description:	The subject site consists of a strata titled allotment comprising two dwellings located on the eastern side of Pittwater Road, Manly. The site is regular in shape with a frontage of 7.03m along Pittwater Road and a depth of 24.4m. The site has a surveyed area of 168.9m². The site is located within the R3 Medium Density Residential zone and accommodates a two storey dual occupancy development. The site is generally flat without any topographical constraint. Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by a mix of residential accommodation in the form of semi attached dwellings, dual occupancy and residential flat buildings. The built form varies from single storey dwellings to 3 storey residential flat buildings.

Map:



SITE HISTORY

Pre Lodgement Meeting (PLM2018/0008)

This pre lodgment meeting was held on 8 February 2018 to discuss the works the subject of this development application.

The notes made the following comments in relation to privacy:

'Consideration is to be given to potential privacy impacts as a result of the rear balcony. A full and comprehensive privacy analysis is to be submitted with the application demonstrating compliance with Clause 3.4.2 of MDCP 2013.'

The concluding comments of the notes of the meeting state:

'The proposal could be supported subject to the submission of two separate written requests seeking to vary each Development Standard (Floor Space Ratio and Height of Buildings) in accordance with Clause 4.6 of MLEP 2013.'

Further you are encouraged to discuss the concerns raised by Council's Heritage Advisor prior to lodging a development application.'

PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for alterations and additions to an existing dual occupancy.

Specifically the works involve:

Ground Floor (Unit 1 and Common Property)

- Rear extension comprising a bedroom\study;
- Reconfiguration of ensuite and robe; and
- In fill of front facade.

First Floor (Unit 2)

Internal alterations to bedrooms 1.

Mezzanine/Attic (Unit 2)

- Relocation of existing skylight; and
- New bedroom, bathroom and rear balcony.

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)(iiia) – 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 matter has been addressed via a condition of consent. <u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000

Section 4.15 Matters for Consideration'	Comments
	requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent. <u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent. <u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
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:
Mr William John O'Regan	5 / 62 - 64 Pittwater Road MANLY NSW 2095
Mr Ranjit Meher Chand Gaiind	26/66-68 North Steyne MANLY NSW 2095
Mr Stephen John Campany	15 / 25 - 27 Victoria Parade MANLY NSW 2095
Kim Nguyen Christopher Moxey	4 / 62 - 64 Pittwater Road MANLY NSW 2095

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

- **Loss of privacy**
- **Loss of solar access**
- **Setbacks**
- **Increased building height, overbuilding and precedence of non compliant development**
- **Incremental noise**
- **Lack of additional parking amenity**

The matters raised within the submissions are addressed as follows:

- **Loss of privacy**

Concern is raised that the proposed development will result in a loss of privacy for adjoining properties.

Comment:

This matter has been addressed in detail elsewhere within this report (refer to Clause 3.4.2 Privacy and Security under the MDCP 2013 section of these notes).

In summary, the development, as conditioned, maintains privacy for adjoining properties and dwelling occupants.

This matter does not warrant refusal of the application.

- **Loss of solar access**

Concern is raised that the proposed development will result in a loss of solar access to the adjoining ground floor apartment to the north and its south facing bedroom window and terrace area.

Comment:

The shadow diagrams submitted with the application (refer to Drawing No.s 07 and 08 prepared by Three corners design) indicate that the proposed development will allow for adequate sunlight access to be maintained to the private open spaces and to habitable rooms of adjacent dwellings.

This matter does not warrant refusal of the application.

- **Setbacks**

Concern is raised that the proposed balcony has a nil setback to the northern boundary.

Comment:

This matter has been addressed in detail elsewhere within this report (refer to Clause 4.1.4 Setbacks (front, side and rear) and Building Separation under the MDCP 2013 section of this report).

In summary, the assessment of this application has found the development achieves consistency with the underlying objectives of Clause 4.1.4 and the variations to the control supported in this instance.

This matter does not warrant refusal of the application.

- **Increased building height, overbuilding and precedence of non compliant development**

Concern is raised regarding the non compliant building height and floor space ratio.

Comment:

The matter of non compliance with the Height of Buildings and Floor Space Ratio Development Standards is addressed in detail elsewhere in this report (refer to Clause 4.6 Exceptions to Development Standards under the Manly Local Environmental Plan section).

In summary, the assessment of this application has found that the development achieves consistency with the underlying objectives of Clause 4.3, Clause 4.4 and Clause 4.6 of the MLEP and that there is sufficient environmental planning grounds to justify and support the variations in this instance.

This matter does not warrant refusal of the application.

- **Incremental noise**

Concern is raised that the new rear balcony will create unreasonable noise impacts.

Comment:

The subject site is located within a well established residential area where buildings are of a similar size, scale and enjoy the use of private open space areas in the form of balconies and terraces.

The rear balcony is located off a bedroom within a mezzanine level and therefore the volume of use is not considered to be high. The balcony, as conditioned, is not of a size that would create an area for occupants to congregate and cause unreasonable acoustic impacts on adjoining properties.

This matter does not warrant refusal of the application.

- **Lack of additional parking amenity**

Concern is raised that proposal does not provide any car parking.

Comment:

This matter is addressed in detail elsewhere within this report (refer to Clause 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)) under the MDCP 2013 section of this report).

The proposed development results in an additional bedroom being provided for each apartment which, when applying the rates above, requires 1.2 spaces to be provided for Unit 1 and 1.5 spaces for Unit 2. It is noted the existing development does not provide any off street car parking for either apartment and there is no ability for car parking to be provided on the site given the site area and lot dimensions.

The subject site is located within walking distance (approximately 550m to Manly Wharf of the main public transport hub in Manly at Manly Wharf (approximately 550m) and the Manly Town Centre (approximately 300m). These areas provide suitable public transport and access to goods and services to adequately continue serve the needs of the dwelling occupants.

Therefore, notwithstanding the technical non compliance with this control the ongoing provision of no on site car parking is supported in this circumstance.

This matter does not warrant refusal of the application.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Strategic and Place Planning (Heritage Officer)	The proposal was designed in accordance with the heritage advice issued as part of the PLM2018/0008. Refer to TRIM Doc. No. 2018/260253 for details. Based on this, I have no objection to this proposal from heritage perspective. Zoran Popovic heritage adviser

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 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 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. A308951 dated, Monday, 9 April 2018).

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid. 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 recommended.

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	9.45m	11.17%	No (see Clause 4.6 discussion)
Floor Space Ratio	FSR: 0.6:1 (101.3m ²)	FSR: 1.19:1 (201.2m ²)	98.6%	No (see Clause 4.6 discussion)

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	No
4.4 Floor space ratio	No
4.6 Exceptions to development standards	No

Detailed Assessment

4.6 Exceptions to development standards

Clause 4.3 Height of Buildings

The following assessment of the variation to Clause 4.3 Height of Buildings development standard has taken into consideration the questions established in Winten Property Group Limited v North Sydney Council (2001) NSW LEC 46.

Requirement:	8.5m
Existing:	9.23m (8.5%)
Proposed:	9.45m
Is the planning control in question a development standard?	YES
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical
If numerical enter a % variation to requirement	11.7%

The proposal must satisfy the objectives of Clause 4.3 – Height of Buildings, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the MLEP 2013. The assessment is detailed as follows:

Is the planning control in question a development standard?

The prescribed Height of buildings limitation pursuant to Clause 4.3 of the MLEP 2013 is a development

standard.

What are the underlying objectives of the development standard?

The underlying objectives of the standard, pursuant to Clause 4.3 – ‘Height of buildings’ of the MLEP 2013 are:

(1) The objectives of this clause are 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 mezzanine/attic addition is consistent with the existing roof form and results in a minor increase in overall building height. The building height is consistent with the building height of surrounding buildings and therefore the development maintains consistency with the prevailing building height and desired future streetscape character in the locality.

In this regard, the development provides building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality.

The development satisfies this objective.

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

Comment:

The bulk and scale of the building has been effectively controlled by adopting a building and roof design that is consistent with the existing building and roof form and with that of surrounding development. The mezzanine/attic addition is located within the existing building footprint and presents as a roof form when viewed from surrounding properties and will therefore not become visually dominant by way of bulk or scale.

The development satisfies this objective.

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 development allows for and will not have an adverse impact upon views to nearby residential development from public spaces, from nearby residential development to public spaces and views between public spaces.

The development satisfies this objective.

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 non compliance does not result in unreasonable overshadowing of surrounding public and private open spaces. The shadow diagrams submitted with the application (refer to Drawing No.s 07 and 08 prepared by Three corners design) indicate that the proposed development will allow for adequate sunlight access to be maintained to the private open spaces and to habitable rooms of adjacent dwellings.

The development satisfies this objective.

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:

The subject site is not located within a recreation

What are the underlying objectives of the zone?

In assessing the developments the non-compliance, consideration must be given to its consistency with the underlying objectives of the R3 Medium Density Residential zone.

The underlying objectives of the R3 Medium Density Residential zone:

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

Comment:

The development application maintains the use of the existing building as a dual occupancy (attached). This type of residential accommodation will continue provide for the housing needs of the community with the established medium density residential environment.

The development satisfies this objective.

- *To provide a variety of housing types within a medium density residential environment.*

Comment:

The use of the existing building as a dual occupancy (attached) will create a variety of housing types within the existing medium density residential environment.

The development satisfies this objective.

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

Comment:

The development does not prohibit other land uses within the zone that may provide facilities or services to meet the day to day needs of residents.

The development satisfies this objective.

- *To encourage the revitalisation of residential areas by rehabilitation and suitable redevelopment.*

Comment:

The proposed alterations and additions to the existing building will allow for suitable redevelopment of the building within the medium density residential area.

The development satisfies this objective.

- *To encourage the provision and retention of tourist accommodation that enhances the role of Manly as an international tourist destination.*

Comment:

There is no change of use proposed as part of this application. The site will continued to be used for residential purposes and does not preclude opportunities for tourist accommodation to be provided or retained elsewhere within the locality.

The development satisfies this objective.

Is the variation to the development standard consistent with the objectives of Clause 4.6 of the MLEP 2013?

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

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development.

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Comment:

The proposed variation to the development standard is consistent with the objectives of Clause 4.6 as it provides an appropriate degree of flexibility in applying the height of buildings development standard.

The proposed variation is relatively minor (0.95m) and relates to the extension of the existing attic space within Unit 2. It is appropriate to allow a degree of flexibility in this instance give the relatively minor nature of the non compliance and that the attic extension results in an additional bedroom within the apartment whilst maintaining a reasonable level of amenity for adjoining properties and future occupants. Therefore, the proposal will achieve a better outcome for and from the development in this particular circumstance.

The development satisfies this objective.

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

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

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

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

Comment:

The applicants written request is attached to this report as an Appendix.

As detailed throughout this Clause, the assessment of the proposed variation against the provisions of this Clause, the objectives of the Development Standard and zone objectives, generally concurs with the justification provided by the applicant. That is, that compliance with the Height of Buildings Development Standard is unreasonable or unnecessary in the circumstances of this case and that there are sufficient environmental planning grounds to justify the contravention of the development standard.

The non compliance relates to the rear extension of the existing mezzanine/attic space associated with Unit 2. The offending building/roof elements do not result in any adverse environmental impacts on surrounding lands by way of overshadowing, visual impact or view loss. The height of the building is consistent with that of surrounding and nearby development and results in a minor increase above the height of the existing building (0.22m). The rear addition will not be readily viewed from the street and has the form of a roof to ensure the visual bulk and scale is minimised when viewed from surrounding properties.

For these reasons and in this circumstance it is considered that compliance with the development standard is unreasonable or unnecessary and there are there are sufficient environmental planning grounds to justify contravening the development standard.

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

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

Comment:

The applicant's written request prepared by Symons Goodyer Pty Limited, dated 5 April 2018 (attached to this report as an Appendix) has adequately addressed the matters required to be demonstrated by subclause (3).

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

Comment:

For reasons detailed above, the proposal is considered to be consistent with the objectives of the R3 Medium Density Residential zone in the MLEP 2013.

(b) the concurrence of the Director-General has been obtained

Comment:

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Director-General may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Director-General for the variation to the Height of buildings Development Standard is assumed by the Local Planning Panel.

Clause 4.4 Floor Space Ratio

The following assessment of the variation to Clause 4.4 Floor Space Ratio development standard has taken into consideration the questions established in Winten Property Group Limited v North Sydney Council (2001) NSW LEC 46.

Requirement:	0.6:1 (101.3m ²)
Existing:	0.96:1 (161.4m ²)
Proposed:	1.19:1 (201.2m ²)
Is the planning control in question a development standard?	YES
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical
If numerical enter a % variation to requirement	98.6% or 99.9m ²

The proposal must satisfy the objectives of 4.4 Floor Space Ratio, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the MLEP 2013. The assessment is detailed as follows:

Is the planning control in question a development standard?

The prescribed Floor space ratio limitation pursuant to Clause 4.4 of the MLEP 2013 is a development standard.

What are the underlying objectives of the development standard?

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

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

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

Comment:

The addition and extension of the existing mezzanine/attic space provides additional floor space for each dwelling within the dual occupancy without extending the building beyond the existing footprint.

The attic space and roof form has been adequately designed to ensure the bulk and scale is consistent with the existing and desired streetscape character by way of a design that compliment the existing architecture of the building and through the use of materials and finishes that compliment the existing structure and nearby development.

The development satisfies this objective.

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

Comment:

The proposed development fits comfortably within its surrounds and is consistent with the height of surrounding and nearby buildings in the local area. Therefore the development will not obscure important landscape or townscape features.

The development satisfies this objective.

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

Comment:

The development maintains and enhances the visual relationship between the new development and the existing character and landscape of the area. The building has been designed to compliment the existing architecture of the building and is proposed to be finished in materials that will complement the existing character of the area. The development will maintain the existing visual and landscape quality of the area.

The development satisfies this objective.

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

Comment:

The development will not result in adverse environmental impacts on the use or enjoyment of adjoining land and the public domain.

The development satisfies this objective.

e) to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of

local services and employment opportunities in local centres.

Comment:

The subject site is not located within a business zone.

What are the underlying objectives of the zone?

In assessing the developments the non-compliance, consideration must be given to its consistency with the underlying objectives of the R3 Medium Density Residential zone.

The underlying objectives of the R3 Medium Density Residential zone:

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

Comment:

The development application maintains the use of the existing building as a dual occupancy (attached). This type of residential accommodation will continue provide for the housing needs of the community with the established medium density residential environment.

The development satisfies this objective.

- *To provide a variety of housing types within a medium density residential environment.*

Comment:

The use of the existing building as a dual occupancy (attached) will create a variety of housing types within the existing medium density residential environment.

The development satisfies this objective.

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

Comment:

The development does not prohibit other land uses within the zone that may provide facilities or services to meet the day to day needs of residents.

The development satisfies this objective.

- *To encourage the revitalisation of residential areas by rehabilitation and suitable redevelopment.*

Comment:

The proposed alterations and additions to the existing building will allow for suitable redevelopment of the building within the medium density residential area.

The development satisfies this objective.

- *To encourage the provision and retention of tourist accommodation that enhances the role of Manly as an international tourist destination.*

Comment:

There is no change of use proposed as part of this application. The site will continued to be used for residential purposes and does not preclude opportunities for tourist accommodation to be provided or retained elsswhere within the locality.

The development satisfies this objective.

Is the variation to the development standard consistent with the objectives of Clause 4.6 of the MLEP 2013?

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

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development.

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Comment:

The proposed variation to the development standard is consistent with the objectives of Clause 4.6 as it provides an appropriate degree of flexibility in applying the floor space ratio development standard.

The variation to the floor space control will achieve a better outcome for and from the development by providing additional floor space within the existing building footprint that will complement the existing building and the character of the locality.

Further, the development does not result in any unreasonable visual or physical impacts on surrounding or nearby development.

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

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

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

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

Comment:

The applicants written request is attached to this report as an Appendix.

As detailed throughout this Clause, the assessment of the proposed variation against the provisions of this Clause, the objectives of the Development Standard and zone objectives, generally concurs with the justification provided by the applicant. That is, that compliance with the Floor Space Ratio Development Standard is unreasonable or unnecessary in the circumstances of this case and that there are sufficient environmental planning grounds to justify the contravention of the development standard.

The development results in additional floor space being provided at ground floor level and within the roof form as a mezzanine/attic space. The ground floor extensions are not readily viewable from the street or adjoining properties and will not have any visual or physical impact on adjoining properties. The addition of new floor space within the mezzanine/attic floor provides additional floor space for Unit 2 whilst maintaining a building height and roof form that is consistent with the existing building and with that of surrounding development.

The development has been designed to compliment the existing character of the building and local area. The floor space non compliance does not result in a building that is visually dominant by way of its height, bulk or scale and does not result in any adverse visual or physical impacts on surrounding or nearby development.

For these reasons and in this circumstance it is considered that compliance with the development standard is unreasonable or unnecessary and there are there are sufficient environmental planning grounds to justify contravening the development standard.

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

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

Comment:

The applicant's written request prepared by Symons Goodyer, dated 5 April 2018 (attached to this report as an Appendix) has adequately addressed the matters required to be demonstrated by subclause (3).

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

Comment:

For reasons detailed above, the proposal is considered to be consistent with the objectives of the R3 Medium Density Residential zone in the MLEP 2013.

(b) the concurrence of the Director-General has been obtained

Comment:

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Director-General may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Director-General for the variation to the Floor space ratio Development Standard is assumed by the Local Planning Panel.

Note:

4.1.3.1 Exceptions to FSR for Undersized Lots

Clause 4.1.3.1 of MDCP 2013, provides exceptions to the maximum FSR control for undersized lots (i.e. where the actual lot size is less than the minimum lot size) on existing sites in residential LEP zones.

The undersized nature of a lot is a matter that Council may consider in determining whether 'compliance with the standard is unreasonable or unnecessary in the circumstances of the case' and 'there is sufficient environment planning grounds to justify contravening the development standard' under LEP clause 4.6(3).

The assessment of floor space ratio above has considered the development's existing and undersized lot size rather than the minimum lot size for the site as prescribed under MLEP 2013.

If the minimum lot size of 250sqm was used to determine the proposed FSR, the development would have a FSR of 0.89:1, which would reduce the variation to Clause 4.4 Floor Space Ratio 48.3%.

Manly Development Control Plan

Built Form Controls

No

Built Form Controls - Site Area: 168.9m²	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	South side: 6.5m	2.76-8.32m	28%	No
	North side: 6.5m	8.32m	28%	No
4.1.2.2 Number of Storeys	2	3	33%	No
4.1.2.3 Roof Height	Height: 2.5m	1.13m	N/A	Yes
	Pitch: maximum 35 degrees	25 degrees	N/A	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line	No change - consistent with prevailing setback	N/A	Yes
4.1.4.2 Side Setbacks and Secondary Street	2.77m (based on wall height)	Nil - 2.7m	100%	No

Frontages	Windows: 3m	0.7m	76%	No
4.1.4.4 Rear Setbacks	8m	5.14m to new works on ground floor - consistent with existing building setback.	35%	No
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% (92.9m ²) of site area	33% (56.4m ²) - existing and unchanged.	N/A	N/A
	Open space above ground 25% (14m ²) of total open space	33% (19.1m ²)	32%	No
4.1.5.2 Landscaped Area	Landscaped area 35% of open space	0% - no change to existing.	N/A	N/A
	1 native trees	Nil- no change to existing	N/A	N/A
Schedule 3 Parking and Access	Dwelling 2 spaces	Nil - no change to existing.	N/A	N/A

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

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.3 Landscaping	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
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	Yes
5.2 Pittwater Road Conservation Area	Yes	Yes

Detailed Assessment

3.4.2 Privacy and Security

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 loss of privacy to adjacent and nearby development by:

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

Comment:

The subject site shares a common southern boundary with buildings that have a street frontage to Pittwater Road and Denison Street, which presents design challenges for privacy between buildings. Buildings located on Pittwater Road and on Denison Street orientate building entrances towards the street and private open space areas are generally orientated towards the rear boundaries which are shared with the subject site.

This creates a relationship between buildings where opportunities for direct and close overlooking are available.

It is acknowledged that generally, the building has been appropriately designed to provide privacy between buildings, however there are elements of the mezzanine/attic floor level addition that present the opportunity to further exacerbate overlooking opportunities. In particular the rear balcony located off the bedroom on the mezzanine/attic floor level is considered to be of a size that will present opportunities for unreasonable overlooking and loss of privacy to adjoining properties. Similarly, the south facing window (shown as window 5 on the submitted plans) provides opportunities for overlooking to occur.

In this regard, it is considered appropriate to impose conditions of consent which reduce the size of the balcony to a maximum depth of 1.5 metres (measured from the external face of the eastern building wall) and increase the sill height of window 5 to a minimum 1.65m (measured from the finished floor level of the mezzanine/attic level). Conditions to this effect have been included in the recommendation of this report.

The development, as conditioned, satisfies this objective.

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

Comment:

As detailed above, the proposal, as conditioned, provides a reasonable level of privacy without compromising access to light and air and appropriately balances outlook and views from habitable rooms and private open space.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The proposed front entrance and rear private open space areas provide opportunities for casual surveillance across the streetscape thereby encouraging neighbourhood security.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP 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)

This Clause relies upon the objectives of Clause 4.3 under MLEP 2013. An assessment of the proposal against the objectives of Clause 4.3 has been provided within this report. This assessment has found the proposal to be consistent with the objectives of Clause 4.3.

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

Description of non-compliance

The application proposes the following building setbacks:

4.1.4.2 Side Setbacks and Secondary Street Frontages

Required: North/South - 2.77m (based on wall height)

Proposed: Nil to 2.7m which equates to a variation of 2.59% to 100%.

4.1.4.4 Rear Setbacks

Required: 8m

Proposed: 5.14m to new works (consistent with existing building setback) which equates to a variation of 35%.

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 development largely maintains the existing setbacks to the boundaries of the site with the exception of the mezzanine/attic addition at the rear of the site which is setback 5.14m from the rear boundary, consistent with the existing building setback.

The setbacks are consistent with the prevailing setbacks in the street and compatible with surrounding and nearby development and therefore the existing streetscape character is maintained.

The development satisfies this objective.

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 development maintains a reasonable level of privacy, as conditioned, and maintains adequate access, to light, sunshine and air movement.

The development allows for a reasonable sharing of views to and from public and private properties while largely maintaining the existing building setbacks to shared boundaries. The building setbacks and overall built form is consistent with that of surrounding buildings and provides adequate physical separation between buildings to create a rhythm or pattern of space.

The development satisfies this objective.

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

Comment:

The development maintains the existing building setbacks and building footprint with the exception of the ground floor extension which has a nil setback to the southern side boundary.

In this regard, appropriate flexibility is demonstrated in the siting of the proposed development given the maintenance of the majority of the building setbacks.

The development satisfies this objective.

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 development maintains the existing areas of soft landscaping on site. The site does not adjoin open space lands, a National Park or on land to which State Environmental Planning Policy No 19 - Urban Bushland applies

The development satisfies this objective.

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

Comment:

The development is not located within a bushfire prone area.

The development satisfies this objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP 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

4.1.5.1 Minimum Residential Total Open Space Requirements - Residential Open Space Area: Required:

- OS3 Total open space 55% of site area - 92.9m²
- Open space above ground 25% of total open space - 14m²

Proposed:

- Total open space- 33% (56.4m²) - existing and unchanged.
- Open space above ground - 19m² which equates to a variation of 33%

It should be noted that there is currently no private open space provided for the occupants of Unit 2. This proposal provides private open space within the mezzanine/attic level of Unit 2 which is considered to be an improvement on the existing amenity of Unit 2.

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 development retains the existing provision of soft landscaping and important landscape features.

The development satisfies this objective.

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 development maintains the existing provision of soft landscaping and open space at ground level as the ground floor extension is to be built over an area that does not meet the minimum dimensions for open space and is therefore not included in any calculation.

The development satisfies this objective.

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

Comment:

The development, as conditioned, will enhance the amenity of the site, the streetscape and the surrounding area through the retention of the existing soft landscaping on site.

The development satisfies this objective.

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

Comment:

The proposed development will retain the existing provision of open space and landscape area on site which will continue to provide opportunities for water infiltration on-site and to minimise stormwater runoff.

The development satisfies this objective.

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

Comment:

The development will not result in the spread of weeds or degradation of private and public open space.

The development satisfies this objective.

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

Comment:

The subject site does not contain any wildlife habitat or wildlife corridors.

The development satisfies this objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP 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.

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

Schedule 3 under MDCP 2013 stipulates the car parking rates for dual occupancy development as:

In LEP Residential Zones and all other Zones except LEP Business Zones

- 1 resident parking space for each dwelling (irrespective of number of bedrooms), plus
- 0.2 resident parking spaces for each 2 bedroom dwelling, plus

- 0.5 resident parking space for each 3 (or more) bedroom dwelling, and plus
- 0.25 visitor parking space for each dwelling (irrespective of number of bedrooms).

The proposed development results in an additional bedroom being provided for each apartment which, when applying the rates above, requires 1.2 spaces to be provided for Unit 1 and 1.5 spaces for Unit 2. It is noted the existing development does not provide any off street car parking for either apartment and there is no ability for car parking to be provided on the site given the site area and lot dimensions.

The subject site is located within walking distance (approximately 550m to Manly Wharf of the main public transport hub in Manly at Manly Wharf (approximately 550m) and the Manly Town Centre (approximately 300m). These areas provide suitable public transport and access to goods and services to adequately continue serve the needs of the dwelling occupants.

Therefore, notwithstanding the technical non compliance with this control the ongoing provision of no on site car parking is supported in this 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 DA2018/0598 for Alterations and additions to the existing dual occupancy on land at Lot 2 SP 80544, 2 / 60 Pittwater Road, MANLY, Lot 1 SP 80544, 1 / 60 Pittwater Road, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
02 Rev D	13/04/18	Three corners design
03 Rev D	13/04/18	Three corners design
04 Rev D	13/04/18	Three corners design
05 Rev D	13/04/18	Three corners design

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

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. 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

- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

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

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

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

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

Reason: Legislative Requirement (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. (DACPLB10)

FEES / CHARGES / CONTRIBUTIONS

4. Security Bond

A bond (determined from cost of works) of \$1,500 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

5. Compliance with Standards

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

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

Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)

6. 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)

7. 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.

Please refer to the website www.sydneywater.com.au for:

- 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)

8. Privacy

The following amendments are to be made to the approved plans:

- The balcony located off the 'attic bedroom' on the mezzanine level is to have a maximum depth of 1.5 metres (measured from the external face of the eastern building wall).
- The sill height of window 5 is to be increased to have a minimum sill height of 1.65

metres (measured from the finished floor level of the mezzanine level).

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.

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

9. **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.

Note: The following Standards and Codes applied at the time of determination:

- (a) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003 - Plumbing and drainage - Stormwater drainage
- (b) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003/Amdt 1 - 2006 - Plumbing and drainage - Stormwater drainage
- (c) National Plumbing and Drainage Code.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development. (DACENF05)

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Luke Perry, Principal Planner

The application is determined on //, under the delegated authority of:

Rodney Piggott, Manager Development Assessments

ATTACHMENT A

Notification Plan	Title	Date
 2018/240390	Plan - Notification	17/04/2018

ATTACHMENT B

Notification Document	Title	Date
 2018/250761	Notification Map	23/04/2018

ATTACHMENT C

Reference Number	Document	Date
 2018/168994	PLM Notes - PLM2018/0008 - 2/60 Pittwater Road MANLY	12/03/2018
 2018/260253	FW: 1-2 / 60 Pittwater Rd: follow up with Council Heritage officer, seeking comment from Planner	26/03/2018
 2018/240377	Report - Heritage Impact Statement	12/04/2018
 2018/240368	Cost Summary Report	13/04/2018
 2018/240393	Plans - Sediment & Erosion Control	16/04/2018
 2018/240386	Report - Waste Management Plan	16/04/2018
 DA2018/0598	1/60 Pittwater Road MANLY NSW 2095 - Development Application - Alterations and Additions	16/04/2018
 2018/238120	DA Acknowledgement Letter - Simon Patrick Halpin - Sarah Louise Skinner - Virginie Cecile Mary Halpin	16/04/2018
 2018/240371	Report - Statement of Environmental Effects	17/04/2018
 2018/240390	Plan - Notification	17/04/2018
 2018/240391	Plan - Survey	17/04/2018
 2018/240395	Plans - Certification of Shadow Diagrams with Plans	17/04/2018
 2018/240400	Plans - Master Set	17/04/2018
 2018/240397	Plans - External	17/04/2018
 2018/240399	Plans - Internal	17/04/2018
 2018/240364	Development Application Form	17/04/2018
 2018/240367	Applicant Details	17/04/2018
 2018/240369	Owner's Consent	17/04/2018
 2018/240373	Report - BASIX Certificate	17/04/2018
 2018/240374	Report - Clause 4.6	17/04/2018
 2018/250736	ARP Notification Map	23/04/2018
 2018/250745	DA Acknowledgement Letter (not integrated) - Simon Patrick Halpin - Sarah Louise Skinner - Virginie Cecile Mary Halpin	23/04/2018
 2018/250761	Notification Map	23/04/2018
 2018/250771	Notification Letter - 117	23/04/2018
 2018/262705	Enquiry - DA2018/0598 - 1/60 Pittwater Road Manly - unable to access plans and drawings - Moxey	27/04/2018
 2018/260284	Heritage Referral Response - DA2018/0598 - 1/60 Pittwater Road, Manly	27/04/2018
 2018/267566	DA0598/2018 - 1/60 Pittwater Road Manly - system	30/04/2018

error

	2018/267279	DA Acknowledgement Letter (not integrated) - Simon Patrick Halpin - Sarah Louise Skinner - Virginie Cecile Mary Halpin	02/05/2018
	2018/267294	Re-Notification Letter - 116	02/05/2018
	2018/267599	E-mail response - Moxey	02/05/2018
	2018/291649	Online Submission - O'Regan	14/05/2018
	2018/294551	Online Submission - Gaind	14/05/2018
	2018/296594	Online Submission - Campany	16/05/2018
	2018/300033	Submission - Nguyen and Moxey	16/05/2018
	2018/302295	Submission Acknowledgement Letter - Kim Nguyen & Christopher Moxey - SA2018/300033	18/05/2018
	2018/523503	NBLPP - Applicant/Owner Letter	16/08/2018
	2018/540979	NBLPP - Objectors Letter	24/08/2018
	2018/544945	Working Plans	28/08/2018
	2018/545842	Working Plans 1	28/08/2018
	2018/545897	NBLPP Plans	28/08/2018