

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1634
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Responsible Officer:	Maxwell Duncan
Land to be developed (Address):	Lot 9 DP 3742, 16 Fairlight Crescent FAIRLIGHT NSW 2094
Proposed Development:	Construction of a dwelling house including a swimming pool
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	NBLPP
Land and Environment Court Action:	No
Owner:	Alexandra Claire Rees
Applicant:	Alexandra Claire Rees

Application lodged:	04/10/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	12/10/2018 to 30/10/2018
Advertised:	Not Advertised
Submissions Received:	11
Recommendation:	Approval

Estimated Cost of Works:	\$ 2,204,000.00
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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 Local Environmental Plan 2013 - 6.2 Earthworks

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 - 4.1.8 Development on Sloping Sites

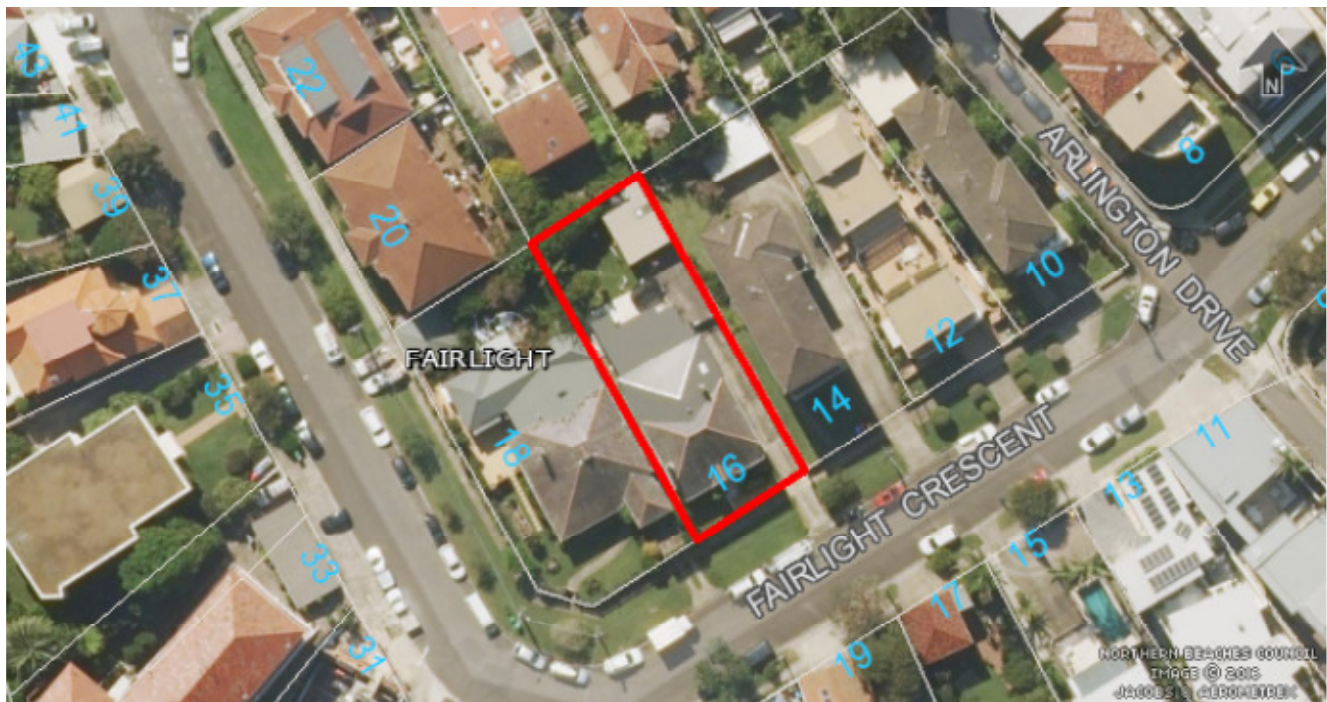
Manly Development Control Plan - 4.1.9 Swimming Pools, Spas and Water Features

Manly Development Control Plan - 4.1.10 Fencing

SITE DESCRIPTION

Property Description:	Lot 9 DP 3742 , 16 Fairlight Crescent FAIRLIGHT NSW 2094
Detailed Site Description:	The subject site consists of one (1) allotment located on the northern side of Fairlight Crescent. The site is regular in shape with a frontage of 15.24m along Fairlight Crescent and a depth of 40.3m. The site has a surveyed area of 613.2m². The site is located within the R1 General Residential zone and accommodates a single storey dwelling house. The site slopes from the northern end of the property to the southern end (front) approximately 3.5m Detailed Description of Adjoining/Surrounding Development Adjoining and surrounding development is characterised by residential development typically single and multi dwelling residential development.

Map:



SITE HISTORY

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

CDC2018/0312- Demolition of the existing dwelling house and driveway.

PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for the construction of a three storey detached dwelling house with basement, swimming pool, construction of a driveway and crossover and associated landscaping works.

AMENDED PLANS

Following a preliminary assessment of the application Council wrote to the applicant on the 4 December 2018 outlining a number of issues that would not allow Council to support the application in its original form. The issues included building height non-compliance, privacy and issues related to the proposed solid fuel heaters. Following receipt of the letter the applicant advised council that they intended to amend the development application. Council agreed to accept amendments to the application, and requested height poles be erected on site to allow for an accurate view loss assessment.

The applicant subsequently provided amended plans to address the concerns raised on 10 December 2018. Amendments to the proposal included removal of the proposed roof terrace and compliance with the Height of Buildings development standard (Clause 4.3 Manly LEP).

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
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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 matter has been addressed via a condition of consent. <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 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	(i) Environmental Impact

Section 4.15 Matters for Consideration'	Comments
the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	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.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

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

As a result of the public exhibition process council is in receipt of 11 submission/s from:

Name:	Address:
Mr Bruce Williams	6 / 14 Fairlight Crescent FAIRLIGHT NSW 2094
Mrs Ann Gillian Anstee	3 / 14 Fairlight Crescent FAIRLIGHT NSW 2094
Mr Simon Robert Buttenshaw	5 / 14 Fairlight Crescent FAIRLIGHT NSW 2094
Mr Richard Charles Ogden	Villa 2 26-30 Ashington Street WEST END QLD NSW 4010
Tracy Davey Proprietors of Strata Plan 4548	14 Fairlight Crescent FAIRLIGHT NSW 2094
Ms Martina Elisabeth Gabrielsson Mr James Patrick	1 / 14 Fairlight Crescent FAIRLIGHT NSW 2094

Name:	Address:
Gabrielsson	
Mr Simon Albert Rosewell	4 / 20 Fairlight Crescent FAIRLIGHT NSW 2094
Mrs Bernadette Mary Watson Mr Ian David Watson Simon Rosewell Pty Ltd	18 Fairlight Crescent FAIRLIGHT NSW 2094
Mrs Kathleen Judith O'Doherty	4 / 12 Fairlight Crescent FAIRLIGHT NSW 2094
Ms Carole Johanne Moss	8 Bolingbroke Parade FAIRLIGHT NSW 2094
Ms Jayne Mary-Ellen Tancred	1 / 17 Bolingbroke Parade FAIRLIGHT NSW 2094

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

- **Roof Terrace**
- **View Loss**
- **Building Height**
- **Bulk and Scale**
- **Setback non-compliance**
- **Streetscape non-compliance**
- **Solar access**
- **Privacy**
- **Solid fuel heater**
- **Air conditioning units/compressors**
- **Swimming pool and spa**

The matters raised within the submissions are addressed as follows:

- **Roof Terrace**

Comment:

Concern was raised by numerous neighbouring properties in regards to the potential privacy impacts that would result from the proposed roof terrace, originally proposed under this application. The roof terrace was deleted as part of amended plans provided to Council on 10 December 2018, following Council writing to the applicant requesting the removal of the roof terrace on 4 December 2018.

This does not warrant the refusal of this application.

- **View Loss**

Comment:

Concern was raised in regards to view loss from neighbouring dwellings to Sydney Harbour. The proposal has been assessed against the view loss provisions under Clause 3.4.3 of the Manly DCP and the Land and Environment Court Case of *'Tenacity Consulting Pty Ltd v Warringah Council (2004) NSWLEC 140'* in this report (refer to Cl. 3.4.3 Maintenance of Views under the MDCP 2013 section of this report). In summary, the proposed development does not cause unreasonable view loss to and from public and private open spaces.

This matter does not warrant refusal of the application.

- **Building Height**

Comment:

Concern was raised in regards to the height of the dwelling house. The section plan submitted as part of this application indicates a compliant building height. Further, the assessment of this application has found that the development achieves consistency with the underlying objectives of Clause 4.3 of the Manly LEP.

This does not warrant the refusal of this application.

- **Bulk and Scale**

Comment:

The proposed design of the house is sympathetic to the size and scale of neighbouring dwellings and the foreshore area, allowing for reasonable view corridors to be maintained. It is further noted that the proposed dwelling house is consistent with both the Building Height and Floor Space Ratio development standard under the Manly LEP, the foremost controls of bulk and scale. The bulk and scale of the proposed dwelling house is not unreasonable.

This matter does not warrant the refusal of the application.

- **Setback non-compliance**

Comment:

This matter is addressed in detail elsewhere within this report (refer to Cl. 4.1.4 Setbacks (front, side and rear) and Building Separation) under the MDCP 2013 section of this report. In summary, the siting of the building on the site, proposed building setbacks and resultant bulk and scale are considered to be appropriate in this context and satisfy the requirements and objectives of Cl. 4.1.4 Setbacks (front, side and rear) and Building Separation.

This matter does not warrant refusal of the application.

- **Streetscape non-compliance**

Comment:

The visual impact of the proposed house is consistent with that of other dwelling houses along Fairlight Crescent. The proposed size, scale and siting of the dwelling house is not unreasonable given the existing range of development within the streetscape.

This matter does not warrant refusal of the application.

- **Solar Access**

Comment:

An assessment of the application against Clause 3.4.1 Sunlight Access and Overshadowing of the Manly DCP reveals that the application complies with the requisite provisions for solar access and does not unreasonably overshadow adjoining properties.

This matter is addressed in further detail elsewhere in this report.

- **Privacy**

Comment:

Concern was raised about resulting privacy impacts (acoustic and visual) that result from the proposed works. The proposal has been assessed against the privacy provisions under Clause 3.4.2 of the Manly DCP in this report. In summary, the proposal complies with the relevant provisions and underlying objectives under Clause 3.4.2 of the Manly DCP. This matter is addressed in further detail elsewhere in this report.

Accordingly, this matter is resolved by way of condition.

- **Solid Fuel Heater**

Comment:

Concern was raised in regards to the two proposed solid fuel heaters to the east of the dwelling house and within the principal private open space. The application was referred to Council's Environmental Health Officer for comment in relation to the proposed heaters. Suitable information has not been provided to allow for an assessment of the suitability of the heaters and as such, no approval is given under this recommendation. A suitable condition has been imposed as part of this recommendation to ensure this is included as part of any consent.

Accordingly, this matter is resolved by way of condition.

- **Air conditioning/compressors**

Comment:

The proposed plans do not depict any air-conditioning units and the location of such would need to meet the requirements of SEPP (Exempt and Complying) 2008 and Council controls.

- **Swimming pool/spa**

Comment:

Concern was also raised in regards to the setbacks and acoustic impact of the swimming pool mechanics including the pool filter. A recommended condition of consent has been included as part of this recommendation to ensure that the pool filter box is sound insulated to ensure no unreasonable aural impact to adjoining properties. As assessment against the underlying objectives of this clause is included as part of this application under clause 4.1.9 of the Manly DCP.

MEDIATION

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

REFERRALS

Internal Referral Body	Comments
Environmental Health (Solid Fuel/Oil Heater)	General Comments Environmental Health has been asked to comment on this DA. Plans indicate by drawings only what appears to be chimney from a heating device beside the swimming pool area. Like wise it may be a BBQ and if so: The BBQ shall not be used as a principle cooking appliance for the dwelling but for occasional recreational use.

Internal Referral Body	Comments
	The BBQ shall be operated in such a manner as to not create a smoke or odour nuisance to any neighbouring property at any time. There is no mention of any open fire place or solid wood fire heater or BBQ in any of the submitted detail and especially the Statement of Environmental Effects . Council consent is required to install and operate a wood fire heater. Council approval is required under Section 68 of the Local Government Act 1993 for the installation and use of a domestic oil or solid fuel heating appliance and can also be approved as part of a DA. All wood fire heaters must be made to comply with the Australian Standards (AS) for wood fire heater emissions AS4013. It is illegal to install a wood fire heater that does not comply with this Australian Standard. Heaters that comply with the AS4013 have an efficiency requirement of 55% and lower emissions levels of 2.5grams of particulate emissions per kilo of wood burnt. heater means any solid fuel burning appliance that is designed, manufactured or adapted for domestic use. A person must not burn anything: (a) in the open, or (b) in an incinerator, in a local government area specified in Part 1 of Schedule 8 Therefore it is important that we get additional information at this time. "details of compliance with appropriate legislation and standards for the construction and operation of the internal wood fire heaters. Generally as a guide we require : 1. Provide evidence that the flue pipe will extend not less than 4.6m above the top of the floor protector. 2. If the flue is 3m or less in horizontal distance from the highest point of the roof, is the top of the flue at least 600mm above the highest point of the roof? 3. If the flue is over 3m metres in horizontal distance from the highest point of the roof, is the

Internal Referral Body	Comments
	height of the flue at least 1000mm above the roof penetration? 4. Provide council evidence that the topography of the site or likely weather patterns or configuration of nearby dwelling/s indicate a potential to cause a smoke nuisance? (Include on site plan) 5. Provide evidence that there are not any significant trees or other environmental or structural factors in the immediate vicinity that may cause a smoke down draught? (Include on site plan) 6. The application must contain site, floor and elevation plans drawn to a scale of 1:100 or 1:200 clearly demonstrating the location of the proposed heater and the proposed flue in relation to the roof line of the dwelling and the closest neighbouring dwelling/building. 7. Provide detailed evidence to Council that the application contains specifications of the appliance to be installed indicating compliance with AS/NZS 2918:2001 and the Building Code of Australia. 8. Provide evidence that the proposed heater will meet the emission control requirements of AS 4013.1999/AS 4013.2014? 9. Provide evidence that the installation will meet the requirements of AS/NZS 2918.2001 Open fires and open fireplaces are not permitted by the EPA with the exception of recreational use and of an occasional nature. In summary: The matter of the possible heater/flue beside the pool area needs clarification before any approval can be given. Likewise the heater/flue beside the pool area may be deleted from the proposal.

Internal Referral Body	Comments
	Additionally It is noted that there is a proposed elevated roof top deck in the development. Based on previous Council wide complaints with regard to noise and lack of privacy Environmental Health is not in favour of a roof top deck. Recommendation REFUSAL <i>Planners comment:</i> Additional information was provided by the applicant to address concerns raised in this referral regards to the two proposed solid fuel heaters. A second referral revealed that further information was not satisfactory, as such no consent for the operation of any solid fuel heater is provided as part of any approval. A suitable condition of consent have been included as part recommendation.
Landscape Officer	The landscape component of the proposal is acceptable subject to the completion of landscaping. Council's Landscape section have assessed the application against the landscape controls of Manly DCP2013, section 3: General Principles of Development, and section 4: Development Controls and Development Types.
NECC (Development Engineering)	Development Engineer has no objection to the application subject to conditions of consent.

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. 964904S).

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.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

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

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

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.4m	N/A	Yes
Floor Space Ratio	FSR: 0.6:1 367.92m ²	FSR: 0.6:1 367m ²	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
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes

Detailed Assessment

6.2 Earthworks

The objectives of Clause 6.2 - 'Earthworks' require development to:

- (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and
- (b) to allow earthworks of a minor nature without requiring separate development consent.

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

Clause 6.2 - 'Matters for Consideration'	Comments
(a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality	The geotechnical report submitted as part of this recommendation states that no overland stormwater is evident from adjoining properties. There are no geotechnical hazards that affect the subject site.

(b) the effect of the proposed development on the likely future use or redevelopment of the land	The proposed excavation is not considered to unreasonably impact upon the potential future use of the site.
(c) the quality of the fill or the soil to be excavated, or both	As stated in the geotechnical report, the excavation will be primarily sandstone bedrock.
(d) the effect of the proposed development on the existing and likely amenity of adjoining properties	The supporting geotechnical report submitted as part of this application, states that the risk of instability from the excavation is negligible. A condition of consent has been included as part of this recommendation to ensure that a dilapidation report in relation to adjoining properties to the east and west prior to issue of any construction certificate.
(e) the source of any fill material and the destination of any excavated material	The excavated material is to be disposed of offsite, as per the submitted waste management plan.
(f) the likelihood of disturbing relics	The subject site is not located in an area that is considered high potential for Aboriginal sites.
(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area	The subject site is located within the G4 Landslip Risk Class within the Manly DCP. The excavation proposed does not propose a large risk of instability.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the aims and objectives of MLEP 2013, MDCP and the objectives specified in s.5(a)(i) and (ii) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 613.2m ²	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	East: 6.9m (based on gradient 1:15)	8m	15.9%	No
	West: 6.9m (based on gradient 1:15)	7.4m	7.2%	No
4.1.2.2 Number of Storeys	2	3	50%	No
4.1.2.3 Roof Height	Height: 2.5m	0.55m	-	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	3.2m, consistent with prevailing setback	-	No
4.1.4.2 Side Setbacks and Secondary Street Frontages	2.66m (based on eastern wall height)	0.9m	33.8%	No
	2.46m (based on western wall height)	1m	40.6%	No
	Windows: 3m	0.9m	70%	No
4.1.4.4 Rear Setbacks	8m	9.1m	-	Yes
4.1.5.1 Minimum	Open space 55%	46.2% 283.6m ²	16%	No

Residential Total Open Space Requirements Residential Open Space Area: OS3	(337.26m ²) of site area			
	Open space above ground 25% (70.9m ²) of total open space	17.3% 49.1m ²	-	Yes
4.1.5.2 Landscaped Area	Landscaped area 35% (99.26m ²) of open space	64.6% 183.4m ²	-	Yes
	3 native trees	1 trees	66%	No
4.1.5.3 Private Open Space	18sqm per dwelling	87sqm	-	Yes
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	0.03m	-	Yes
	1m curtilage/1.5m water side/rear setback	0.8m, 1m	33%	No
4.1.10 Fencing	1.5m with 30% transparency	2.2m	31%	No
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces	-	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 x 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
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	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)	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	No	Yes
4.1.10 Fencing	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

Detailed Assessment

3.1 Streetscapes and Townscapes

Description of non-compliance

Clause 4.1.10 of the Manly DCP requires front fences be a maximum height of 1m or 1.5m with 30 percent transparency.

The proposed front fence/wall has a maximum height of 2.2m, non-compliant with the numeric control. This is a 31% variation to the numeric control.

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 front fence is non-compliant with the 1.5m numeric control under clause 4.1.10 of the Manly DCP. To offset the visual impact of the fence landscaping has been proposed within the front setback, to offset the visual impact of the fence/wall. The proposed wall will be utilising the demolished sandstone that is being removed for the driveway as part of the proposed new wall. The proposed new fence/wall will be an improvement of the existing wall on site. The fence is found to be satisfactory.

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

Comment:

The proposed front fence as proposed is consistent with that of other dwelling houses within the street including the adjoining property to the west (No. 18 Fairlight Crescent) and properties along the southern side of Fairlight Crescent including Nos. 15, 17 and 19 Fairlight Crescent.

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

Comment:

The proposed landscaping within the front setback is suitable in this circumstance.

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

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 proposed development will allow for adequate levels of light and sunshine to penetrate the subject site and adjoining properties.

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:

No. 18 Fairlight Crescent- West of subject site.

Clause 3.4.1.1 a) of the Manly DCP requires new development not eliminate more than one third of the existing sunlight accessing the private open space of adjacent properties between 9am and 3pm throughout the winter solstice. Between 9am and 12pm the adjoining property to the west (No. 18 Fairlight Crescent) private open space will be impacted by shadowing to a minor extent, with substantial sunlight access retained to private open space to this site. The proposed works do not eliminate more than one third of the existing sunlight accessing the private open space of No. 18 Fairlight Crescent between 9am and 3pm during the winter solstice.

Clause 3.4.1.2 a) of the Manly DCP requires at least 4 hours of solar access be retained to living room windows that currently enjoy sunlight between 9am and 3pm on the winter solstice. The primary living rooms of this property are located to the rear (north) of the subject site, allowing for significant level so sunlight throughout the day. The proposed development will not unreasonably compromise the level of sunlight to living rooms that this property currently enjoys. The proposal is compliant with this clause.

No. 14 Fairlight Crescent- East of subject site.

Clause 3.4.1.1 a) of the Manly DCP requires new development not eliminate more than one third of the existing sunlight accessing the private open space of adjacent properties between 9am and 3pm throughout the winter solstice. The proposed development does not compromise the common area of private open space of No. 14 Fairlight Crescent located to the rear of the building between 9am and 3pm during the winter solstice. The balconies of Units 1, 3 and 5 to the front of the building will be shadowed to a negligible to minor extent in the later afternoon of the winter solstice. The proposed works do not eliminate more than third of the existing sunlight accessing the private open space of No. 2 Parkview Road, Fairlight between 9am and 3pm during the winter solstice.

Clause 3.4.1.2 a) of the Manly DCP requires at least 4 hours of solar access be retained to living room windows that currently enjoy sunlight between 9am and 3pm on the winter solstice. The west facing

bedroom windows to the southern end of the buildings will receive additional shadow during the afternoon of the winter solstice (12pm-3pm) this includes units 1, 3 and 5. However, during this time no living room windows will be unreasonably shadowed, with all units of this property retaining adequate sunlight access throughout the day. The proposal is consistent with this objective.

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 sited towards the front of the subject site to allow for suitable sunlight access to both the landscaped open space common area and living room windows of the adjoining eastern residential flat building (No. 14 Fairlight Crescent).

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

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; and*
- *mitigating direct viewing between windows and/or outdoor living areas of adjacent buildings.*

Comment:

The proposal includes a large courtyard and balconies that service both the front and rear of the dwelling house. The principal private open space which includes a large terrace area with swimming pool and spa are located at ground level and do not allow for any direct opportunities for overlooking between properties. The terraced area is sited to the center of the subject site, appropriate given the constraints of the site and considered reasonable in this residential setting, with no unreasonable acoustic impacts upon neighbouring properties. In regards to the resulting privacy impacts of the swimming pool and spa this has been addressed in detail elsewhere within this report (refer to Clause 4.1.9 Swimming Pool and Spas under the MDCP 2013 section of this report). Furthermore, deep soil landscaping along the northern, western and eastern perimeter of the site may further offset the development and assist in reducing the potential opportunities for overlooking into adjoining properties.

The proposed ground and first floor balconies to the front of the dwelling house are suitably offset from the adjoining balconies to the east (No. 14 Fairlight Crescent). The proposal has been designed to ensure reasonable levels of privacy are maintained to adjoining properties. Suitable physical separation is provided between buildings which reduces the potential for overlooking to occur between dwellings.

The balcony at ground floor level is partially screened which further mitigate visual privacy between properties. The ground floor level balcony is elevated to RL17.240 (approximately 1.6m above natural ground level) and is built to the western boundary. The elevated nature of the balcony provides the opportunity for overlooking into the adjoining property to occur. This balcony is deemed to be a secondary area of private open space given the the large private open space area to the rear of the property and the first floor balcony. As such, a condition of consent has been included in the recommendation requiring the ground floor balcony to be setback at least 1.5m from the western boundary, to reduce the usability of the balcony, limit the bulk of the development and reduce potential overlooking to the adjoining western property.

The development also includes a number of large windows along the eastern wall of the dwelling. The proposed first floor windows towards the front of the dwelling off bedroom 2 and 3 have been angled away from the adjoining flat building to the east (No. 14 Fairlight Crescent) to prevent any direct view between windows. The sill of the remaining first floor windows is 1.6-1.8m above the floor level, a sufficient sill height to mitigate any potential for overlooking to the adjoining living room windows or private open space.

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:

The proposed development, as conditioned, will provide suitable access to light and air to the subject site and adjoining properties and view sharing from habitable rooms and private open space.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The dwelling house will allow for passive surveillance of the street.

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

3.4.3 Maintenance of Views

As a result of the public exhibition of the development application Council received a number of submissions raising view loss as a concern.

Submissions have been received from a number of neighbouring properties including No. 14 Fairlight Crescent (Units 1, 3, 4, 5 and 6) as well as 20 Fairlight Crescent (Unit 4), 8 Bolingbroke Parade and 17 Bolingbroke Parade (Unit 1).

Following a preliminary site inspection and assessment of views, Council in its assessment of the application formerly requested the application to erect height poles on the 17 December 2018.

Subsequently, the applicant erected height poles with certification of the height and location of the poles provided by a registered surveyor on 12 March 2019. The location of the height poles is shown below:

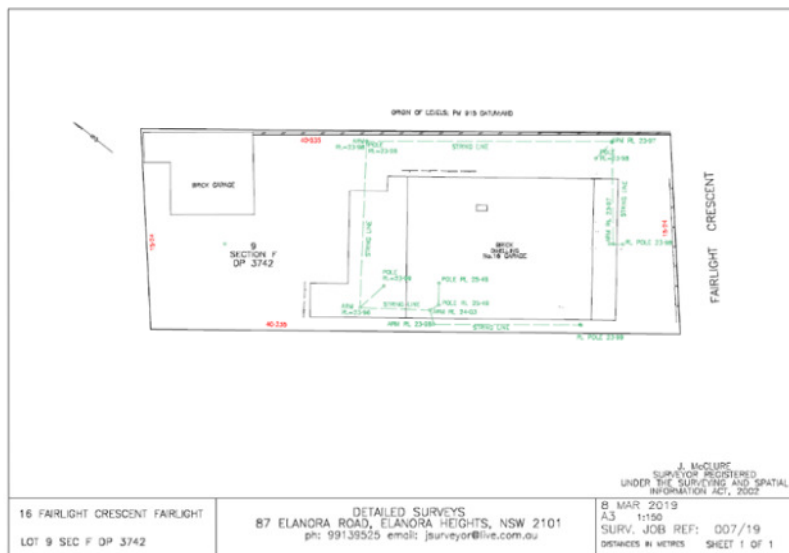


Image 1- Survey confirmation of height poles

A preliminary assessment of the application found there may be views impacts from the adjoining residential flat building to the rear of the subject site (No. 2 Bolingbroke Parade). While this property was notified in accordance with the Manly DCP, no submissions from No. 2 Bolingbroke Parade were received.

Access to unit 2 of No. 2 Bolingbroke Parade was provided by the owner during the assessment of the application to assess the impact of views, which is detailed below. Multiple attempts were made to contact the owner of Unit 3, the southern side unit of this building to undertake a view loss assessment, however no contact was able to be made. As such, the assessment of view loss from this property has been undertaken and considered with the information currently available to Council.

Merit consideration:

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 allows for reasonable levels of view sharing for both existing and proposed development.

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).

The proposal results in a disruption of views from neighbouring properties. The level of view loss is not unreasonable and has been assessed below with regard to the planning principle established by the NSW Land and Environment Court.

Council received eight (8) submissions from neighbouring properties in relation to view loss from the plans submitted. The Manly DCP refers to the planning principal within *Tenacity Consulting v Warringah* [2004] NSWLEC 140 when considering the impacts on the views of the adjoining properties.

1. Nature of the view affected

"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:

No. 2 (Unit 2) Bolingbroke Parade

The nature of the view affected from this dwelling would be harbour, North Head and land water interface views to the south. These views would be filtered through existing development and vegetation as pictured below. Currently, the majority of the existing views are over the top and to the side of the existing dwelling house.



Photo 1- Private open space (Terrace)



Photo 2- Private open space (Terrace)

No. 2 (Unit 3) Bolingbroke Parade (No access to site provided).

The nature of the views affected from this dwelling would be harbour, headland and the land water interface to the south. These views would be filtered through existing development and vegetation. Currently, the majority of the existing views are over the top and to the side of the existing dwelling house.



Photo 3- View of 3/2 Bolingbroke Parade

No. 17 Bolingbroke Parade (Unit 1)

The nature of the views affected from this dwelling would be partial water views. The views are heavily filtered through existing development. At present, the existing views are to the eastern side of the existing dwelling house.



Photo 4- Ground floor bedroom



Photo 5- Ground floor bedroom

No. 8 Bolingbroke Parade

The nature of the views affected from this property would be partial harbour and district headland views. The views are filtered through existing development. At present, the views are over the top of the existing dwelling house of the subject site as pictured below.



Photo 6- First floor master bedroom



Photo 7- First floor living room



Photo 8- First floor living room (looking south)

No. 20 Fairlight Crescent (Unit 4)

The nature of the views affected from this property would be partial harbour and views. The views are filtered through existing development. A large portion of the existing views are to the side and over the top of the subject site dwelling house.



Photo 9- Bedroom 2



Photo 10- Private open space (terrace/balcony)

No. 14 Fairlight Crescent (Unit 5)

The nature of the views affected from this property would be partial harbour and district headland views. The views are filtered through existing development. A large portion of the existing views are through the front and over the top of the existing dwelling house.



Photo 11- Balcony off living room

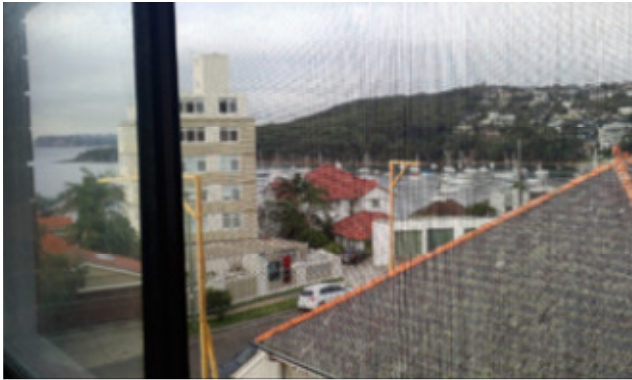


Photo 12- Bedroom

No. 14 Fairlight Crescent (Unit 6)

The nature of the views affected from this property would be partial harbour views and district headland views. The views are filtered through existing development. The view are taken over the top of the existing dwelling house.



Photo 13- Bedroom

No. 14 Fairlight Crescent (Unit 3)

The nature of the views affected from this property would be partial harbour, district, headland views as well as the land and water interface. The views are filtered through existing development. A large portion of the existing views are that are affected are through the front and over the top of the existing dwelling house.



Photo 14- Balcony off living room



Photo 15- Bedroom

No. 14 Fairlight Crescent (Unit 4)

The nature of the views affected from this property would be water and district views. The views are filtered through existing development. At present, the existing views are over the top and to the side of the existing dwelling house of the subject site.



Photo 16- Bedroom



Photo 17- Balcony off living room

No. 14 Fairlight Crescent (Unit 1)

The nature of the views affected from this property would be partial harbour views. The views are filtered through existing development. A large portion of the existing views are that are affected are through the front of the existing dwelling house.



Photo 18- Bedroom

2. What part of the affected property are the views obtained

"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:

No. 2 (Unit 2) Bolingbroke Parade

The views affected from this dwelling are obtained over the rear boundary of the site over the top of the subject site dwelling house. Views are obtained from a standing and sitting position from private open space (terrace).

No. 2 (Unit 3) Bolingbroke Parade (No access to site provided).

The views affected from this dwelling are obtained over the rear boundary over the top and to the side of the dwelling house. Views would be obtained from a standing position from bedrooms

No. 17 Bolingbroke Parade (Unit 1)

The views affected from this dwelling are obtained over the front boundary across Bolingbroke Parade, through existing development and over the top of the existing dwelling house (eastern side). Views are obtained from both a standing and sitting position from a bedroom, the views are partial water views and heavily filtered through existing development.

No. 8 Bolingbroke Parade

The views affected from this property are obtained over a side boundary to the south-west and through the subject site. The views are obtained from a standing and sitting position from bedroom and living rooms.

No. 20 Fairlight Crescent (Unit 4)

The view affected from this dwelling are obtained over a rear boundary through existing development to the side and over the top of the subject site. The views are obtained from a standing position from a bedroom and private open space.

No. 14 Fairlight Crescent (Unit 5)

The view affected from this dwelling are obtained from over a side boundary. The views impacted will be over the top and to the front of the dwelling house. views are obtained from a standing and sitting position from bedroom and private open space.

No. 14 Fairlight Crescent (Unit 6)

The view affected from this dwelling are obtained over a side boundary through existing development to the front and over the top of the subject site. The views are obtained from a standing position from a bedroom.

No. 14 Fairlight Crescent (Unit 3)

The view affected from this dwelling are obtained from over a side boundary. The views impacted will be over the top and to the front of the dwelling house. Views are obtained from a standing and sitting position from bedroom and private open space.

No. 14 Fairlight Crescent (Unit 4)

The view affected from this dwelling is obtained over a side boundary through existing development to the front and over the top of the subject site. The views are obtained from a standing position from a bedroom.

No. 14 Fairlight Crescent (Unit 1)

The view affected from this dwelling is obtained over a side boundary. The views impacted will be to the front of the dwelling house. Views are obtained from a standing and sitting position from bedroom and private open space.

3. Extent of Impact

"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:

No. 2 (Unit 2) Bolingbroke Parade

No. 2/2 Bolingbroke Parade currently enjoys substantial views to harbour, north head and land water interface. Views are taken from the roof terrace over the top of the existing dwelling house. Partial water views would be impacted. The level of impact is considered minor to moderate. The occupants will continue to the majority of the existing water views. Views of the headland and land water interface to the south and south west will be retained.

Therefore, the extent of the impact is considered to be minor.

No. 2 (Unit 3) Bolingbroke Parade (No access to site provided).

No 3/2 Bolingbroke Parade has partial water views to the south and south west. While no site inspection from this property was undertaken, it can be identified that views are enjoy from the first floor bedroom and bathroom windows to the southern end of the dwelling. Water views directly south of the this property will be impacted to a devastating extent. However, it is considered that views corridors to the south east of the subject dwelling house and to the south west while impacted would still allow for a partial waters view be retained from the first floor of this unit.

Therefore, the extent of the impact is considered to be severe.

No. 17 (Unit 1) Bolingbroke Parade

No. 1/17 Bolingbroke Parade currently enjoys filtered water views from the ground floor bedroom to the

south. The views are obtained through existing development too the south and over the existing ridge line of the subject site. The views are from the ground floor bedroom. This property is located wholly on the ground floor and is highly vulnerable to view impacts from any development to the south. The existing water views are expected to be lost completely.

Therefore, the extent of this impact is considered to be devastating.

No. 8 Bolingbroke Parade

The property currently enjoys partial water views from the first floor. The views are obtained through existing development and vegetation to the south west. The views to the south west will be lost to a severe extent as a result of the proposed works, with only a minor corridor or the water retained. However, it is noted that existing water views directly to the rear of the property (south) are retained in full.

Therefore, the extent of the impact is considered to be minor.

No. 20 Fairlight Crescent (Unit 4)

The property has water views to the south and south-east. Views are enjoyed from the private open space (balcony) and second bedroom. The water views from both the balcony and bedroom will be impacted to a moderate extent by the proposed works. Qualitatively and having consideration of the existing view, the overall impact is considered to be moderate.

No. 14 Fairlight Crescent (Unit 5)

The property has substantial water views to the south, south west and south east, and North Head. Views are enjoyed from the living room and adjoining balcony as well as outlook views from bedrooms. Water views to the south west from both the living rooms and balconies would be impacted to a minor extent as result of the proposed works, with the majority of this view over the side boundary retained. Water views to the south, south east and North Head would not be impacted.

The existing outlook view over the side boundary from the bedroom is impacted to a moderate extent. However, given the view is gained over a side boundary and not considered to be highly valued the totality of impact is minor.

No. 14 Fairlight Crescent (Unit 6)

This property has water views to the south and south-east. Water views are enjoyed from the living room, the adjoining balcony and the bedroom. The water views from the living room and balcony will not be impacted by the proposed works. The view from the bedroom will, to a moderate extent, be impacted by the proposed works. It is considered that these views are directly over a side boundary. Qualitatively, and in consideration of the existing substantial views from available from the balcony, the totality of the view loss is minor.

No. 14 Fairlight Crescent (Unit 3)

The property has substantial views to the water to the south, south west and south east, and North Head. Views are enjoyed from the living room and adjoining balcony as well as bedrooms. Water views to the south west from both the living rooms and balconies would be impacted to a minor extent as result of the proposed works, with the majority of this view over the side boundary retained. Water views to the south, south east and North Head would not be impacted.

Therefore, the extent of impact is considered to be minor.

No. 14 Fairlight Crescent (Unit 4)

The property has water views to the south and south-east. Views are enjoyed from the living room and

balcony and a outlook view is enjoyed from the bedroom. The water views from the balcony will not be impacted by the proposed works. The bedroom of the unit has small water view that can enjoyed from only a small area of the bedroom as pictured above. The view should be mostly maintained.

The existing outlook view over the side boundary from the bedroom is impacted to a moderate extent. However, given the view is gained over a side boundary and not considered to be highly valued the totality of impact is minor.

Therefore, the extent of impact is considered to be minor.

No. 14 Fairlight Crescent (Unit 1)

The property has substantial views to the water to the south, south west and south east and North Head. These views are enjoyed from the living room and adjoining balcony as well as a small view from one of the bedrooms. Water views views from the living room and balconies from this unit would be impacted to a negligible to minor extent. Views to the south, south west and south east and North Head will be retained.

Therefore, the extent of impact is considered to be negligible.

4. Reasonableness of the proposal that is causing the impact

"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 responds appropriately to the available views through the provision of views corridors and building articulation to ensure highly valued views are retained and the totality of impact on properties in term of view loss is considered to be moderate. The proposed dwelling house is consistent with both the Height of Building and Floor Space Ratio development standard under the Manly LEP. The proposed dwelling house is non-compliant with the front and side setback control a well as wall height control.

In regards to the extent of view impact on No. 1/17 Bolingbroke Parade, which is considered to be devastating, it is considered that the dwelling is located at ground floor level and such is highly vulnerable to view impacts for any development to the south. If the existing view was to be retained it would mean that there would no opportunity for anything more than single storey dwelling house to be developed on site. Given this and the developments compliance with clause 4.3 Height of Building development standard the application is supported.

In regards to the adjoining eastern flat building (No. 14 Fairlight Crescent), It is noted that the proposed roof extension over the first floor balcony contributes to the loss of water views from the building. It is considered that a more skillful design of the roof could retain a greater level of harbour views, while maintaining a suitable awning/shade structure for the majority of the first floor balcony. The proposal will maintain reasonable view sharing, subject to the following recommended condition of consent:

- The proposed roof is to be setback at least 6m from the front boundary.

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

Reason: To maintain views from adjoining properties and reduce the bulk and scale of the dwelling house.

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 proposed works will not cause unreasonable loss of view. In regards to 'view creep' the proposal does not include unreasonable bulk which could lead to unreasonable future view loss.

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

Description of non-compliance

Clause 4.1.2.1 of the Manly DCP requires the eastern and western wall height of this development, not be more than 6.9m (based on a gradient of 1:15). The development proposes a eastern wall height of 8m and a western wall height of 7.4m, non-compliant with the numeric control. This represents 15.9% variation the numeric control for the eastern wall and 7.2% variation to the numeric control for the western wall.

Clause 4.1.2.2 of the Manly DCP requires building be limited to two (2) storeys. The development proposed is three (3) storeys, non-compliant with the numeric control.

Merit consideration:

This clause relies upon the objectives of Clause 4.3 under MLEP 2013.

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

Objective (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 height of the dwelling house is appropriate when considering the constraints of the site including fall of the land and the uniformity of the proposed dwelling in regards to height when compared to neighbouring dwelling houses within the streetscape.

Objective (b) To control the bulk and scale of the buildings;

Comment:

The proposed bulk and scale of the building relates favourably to the topography of the site. The works will allow for an appropriate relationship and spatial separation with surrounding development.

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 proposal has been assessed against the view loss provisions under Clause 3.4.3 of the Manly DCP and *Tenacity Consulting v Warringah [2004] NSWLEC 140* when considering the impacts on the views of adjoining properties in this report. In summary, the proposed development does not cause unreasonable view loss to and from public and private open spaces.

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 solar impacts of this aspect of the development are minimal and acceptable in terms of the impacts on habitable rooms of the adjoining properties and public open spaces.

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 in a recreation or environmental protection zone.

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

Clause 4.1.4.1 of the Manly DCP requires development be setback 6m from the front boundary or be consistent with the prevailing building line within the streetscape.

Clause 4.1.4.2 requires development be setback at least one third of the adjoining wall height.

Clause 4.1.4.2 requires windows be setback at least 3m from side boundaries.

The development proposes the following:

Front setback- 3.2m (46% variation)

Windows- 0.9m (70% variation)

Side setback (east)- 0.9m (70% variation)

Side setback (west)- 0-1m (40-100% variation)

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:

Fairlight Crescent is a mix of single and multi storey residential development. The bulk and scale of the proposed dwelling house is consistent with the streetscape. The proposal will retain significant landscaping on site to offset the visual impact of the development

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:

Amenity considerations including privacy, solar access and maintenance of views are all maintained to a reasonable extent as part of this proposed development.

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

Comment:

Flexibility is provided in this circumstance as the proposed works will not unreasonably compromise amenity of adjoining properties.

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 proposes suitable deep soil landscaping is proposed on site, consistent with the numeric control under the Manly DCP. The proposed development will not detract from the foreshore area to the south of the site.

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

Comment:

The subject site is not located in a bush fire zone.

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

Clause 4.1.5.1 of the Manly DCP requires 55% or 337.26m² site area be total open space. The development proposes 46.2% or 283.6m² of total open space, non-compliant with the numeric control. A 16% variation to the numeric control.

Clause 4.1.5.2 of the Manly DCP requires at least 3 native tree species be planted on site. The proposed development proposes 1 tree, non-compliant with the numeric control.

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:

There is no removal of any important existing landscape features on site.

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 proposed works are consistent with the numeric control for landscaped open space. The level of proposed tree planting is considered reasonable given the level tree planting of neighbouring properties. Further tree planting may compromise views to and from the foreshore.

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

Comment:

The proposed new dwelling maintains sufficient level of amenity to adjoining properties.

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

Comment:

Stormwater runoff is minimised by the proposed and existing landscaped open space.

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

Comment:

The proposed works does not unreasonably impact upon public open space. The proposed works will not lead to an increased spread of weeds.

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

Comment:

The subject site is not located in close proximity of any wildlife corridors.

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

4.1.8 Development on Sloping Sites

A geotechnical report has been submitted with the application, assessing the potential impact of the steep topography of the site and excavation of the site.

The dwelling house responds appropriately to the sloping site, stepping down at each level to reduce the visual bulk and scale of the dwelling house.

4.1.9 Swimming Pools, Spas and Water Features

Description of non-compliance

Clause 4.1.9 of the Manly DCP 2013 requires swimming pools be setback at least 1.5m from the waters edge and 1m from the pool coping

The proposed swimming pool is setback 0.8m from the swimming pool coping and 1m from the waters edge., non-compliant with the numeric control.

Merit consideration:

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

Objective 1) To be located and designed to maintain the privacy (visually and aurally) of neighbouring

properties and to minimise the impact of filter noise on neighbouring properties;

Comment:

The proposed swimming pool is located at ground level and sited appropriately so as not unreasonably impact upon the adjoining property to the west. A suitable condition has been included as part of the recommendation to ensure the pool filter box is sound insulated to ensure no unreasonable aural impacts to adjoining properties.

Objective 2) To be appropriately located so as not to adversely impact on the streetscape or the established character of the locality;

Comment:

The swimming pool is proposed to the rear of the property. It will not be readily visible from the street.

Objective 3) To integrate landscaping; and

Comment:

Landscaping is proposed to the rear and sides of the swimming pool and associated decking. The proposal will meet the numeric control for landscape open space across the site. The existing and proposed landscape may further offset the visual impact of the swimming pool from surrounding properties.

Objective 4) To become an emergency water resource in bush fire prone areas.

Comment:

The subject site is not located in a bush fire asset protection zone.

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

4.1.10 Fencing

This clause relies upon the objectives of clause 3.1 under Manly DCP 2013. An assessment of the proposal against the objectives under clause 3.1 has been provided within this report. The assessment found the proposal to be consistent with the objectives of clause 3.1 of the Manly DCP.

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 DA2018/1634 for Construction of a dwelling house including a swimming pool on land at Lot 9 DP 3742, 16 Fairlight Crescent, FAIRLIGHT, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp
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Drawing No.	Dated	Prepared By
Issue 3/ Site and Roof Plan	17 January 2019	Vaughan Architects
Issue 1/ Proposed Basement Plan	2 October 2018	Vaughan Architects
Issue 3/ Proposed Ground Floor and Swimming Pool Plan	17 January 2019	Vaughan Architects
Issue 3/ Proposed First Floor Plan	17 January 2019	Vaughan Architects
Issue 3/ North and South Elevations	17 January 2019	Vaughan Architects
Issue 3/ East and West Elevations	17 January 2019	Vaughan Architects
Issue 2/ Sections and Swimming Pool Sections	17 January 2019	Vaughan Architects
Issue 1/ Excavation Plan	2 October 2018	Vaughan Architects

Reports / Documentation – All recommendations and requirements contained within:

Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. 964904S	25 September 2018	Vaughan Architects
Geotechnical Assessment Report	29 August 2018	Jack Hodgson Consultants

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
Planting Plan	21 August 2018	Edwina Stuart
Landscape Plan	21 August 2018	Edwina Stuart

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	25 September 2018	Vaughan Architects

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

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

2. 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:

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

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

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

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

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

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

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

Reason: Legislative Requirement

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.

FEES / CHARGES / CONTRIBUTIONS

4. 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

5. Required canopy tree planting

i) details are to be provided of the proposed native canopy 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,

ii) details of new planting are to include appropriate siting and pot size (minimum of 75 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,

iii) each tree shall be planted into ground with a minimum soil area of 3m x 3m, contained wholly within the site.

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

6. On-site Stormwater Detention Compliance

Certification of Drainage plans detailing the provision of On-site Stormwater Detention in accordance with Northern Beaches Council's MANLY SPECIFICATION FOR ON-SITE STORMWATER MANAGEMENT 2003 and the concept drawing by Quantum Engineers, drawing number 180308 dated 12/9/2018. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

7. Structural Adequacy and Excavation Work

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

(a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and

(b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

8. **Vehicle Crossings Application**

A Driveway Levels and Formwork Inspections Application shall be made with Council subject to the payment of the fee in accordance with Council's Fees and Charges. The fee includes all Council inspections relating to the driveway construction and must be paid.

Approval of the application by Council 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. **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.

10. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is 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)

11. **Roof awning**

The proposed roof is to be setback at least 6m from the front boundary.

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

Reason: To maintain views from adjoining properties and reduce the bulk and scale of the dwelling house. (DACPLCPCC1)

12. **Solid fuel heaters**

No approval is given for the installation of any solid wood fired heater which would need a separate application for consideration.

Reason: To ensure compliance with Section 68 of The Local Government Act (DACPLCPCC2)

13. **Swimming pool mechanical plant**

Any mechanical plant associated with the swimming pool and spa shall be centrally located within the site, away from the boundaries and acoustically treated so the pool filter does not emit any noise of 5dba above background noise at the nearest residential receiver.

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

Reason: To ensure the acoustic amenity of the neighbouring residents.

14. **Ground floor balcony**

The proposed ground floor balcony is to be setback 1.5m from the western boundary.

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

Reason: To maintain privacy from neighbouring properties.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

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

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

16. **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.

17. **Vehicle Crossings**

The provision of one 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.

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

18. **Landscape works**

A) Landscaping is to be implemented in accordance with the Planting Plan LP3817-01, prepared by Edwina Stuart Landscape Design, issue A, and inclusive of the following requirement:

- i) installation of the required number of native trees on site,
- ii) the proposed *Rhapiolepis indica* species shall be substituted with a non seed-spreading native species of similar size,
- iii) the proposed *Bambusa* species shall be maintained to a height no higher than the eaves.

B) Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the landscape plan and inclusive of any conditions of consent.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity.

19. **Authorisation of Legal Documentation Required for Onsite Detention**

The original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land.

20. **Registration of Encumbrances for On-site Stormwater Detention**

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land.

21. **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

22. **On-Site Stormwater Detention Compliance Certification**

Upon completion of the on-site stormwater detention (OSD) system, certification from a consulting engineer and a "work as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council.

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 stormwater disposal is constructed to Council's satisfaction. (DACENF10)

23. **Positive Covenant and Restriction as to User for On-site Stormwater Detention**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Council prior to lodgement with NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction.

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 the on-site detention and/or pump system is maintained to an appropriate operational standard.