



northern
beaches
council

Delegated Authority Report

2017/

DA #	247/2017
Site Address	2 Golf Parade, Manly (Lot B, DP 304946)
Proposal	Alterations and additions to the existing dwelling.
Officer	Max Duncan

SUMMARY:

Application Lodged:

30 October 2017

Applicant:

Tanna Green Architects

Owner:

Sarah Paine

Estimated Cost:

\$462,164.00

Zoning:

MLEP, 2013 – R1 General Residential

Heritage:

Not applicable

NSW LEC:

Not applicable

Notification:

31 October 2017- 16 November 2017

Submissions received:

One (1)

Site Inspected:

21 December 2017

LEP (4.6) Variations proposed:

Clause 4.4- Floor Space Ratio

DCP Variations proposed:

Wall Height,

Recommendation:

Approval

Subject Property and surrounding area



Image 1- Subject site and surrounding development

The subject property is commonly known as 2 Golf Parade, Manly and legally known as Lot B in DP 304946. The site is located on the northern side of Golf Parade. The property is rectangular in shape and has a frontage of 6.7 m to Golf Parade, an average depth of 30.5m and an overall site area of 203.6m². The property currently contains a two (2) storey dwelling with no vehicular access. The property slopes from south-west corner to the north-east corner of the property approximately 0.3m

The area is characterised by residential and commercial development.

Property Burdens and Constraints

There are no burdens or constraints that would preclude the proposed development.

Site History/Background

No previous application on site available in Council's records.

Description of proposed development

The proposal includes alterations and additions to the existing dwelling including:

- Ground Floor alterations.
- Landscaping.
- External alterations.
- First floor extension including new bedroom, bathroom and rear balcony.

Internal Referrals

Engineering Comments

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

Building Comments

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

Waste Comments

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

Planning Comments

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

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

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

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005:

Manly Local Environmental Plan 2013

The subject site is located in Zone R1 General Residential under the Manly LEP 2013. The proposed development is considered permissible within the zone with consent. An assessment of the proposal against the objectives of the Zone is included below:

Zone R1 General Residential

Objectives of zone

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

The proposal will not affect the housing needs of the community.

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

The proposal maintains housing variety within the residential area.

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

Existing residential use remains unchanged.

Part 4 Principal development standards

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

4.	Principal Development Standards	Requirement	Proposed	Complies Yes/No	Comments
4.3	Height of buildings	8.5m	7m	Yes	Proposal complies with the clause.
4.4	Floor Space Ratio	0.6:1 122.16m ²	0.657:1 133.9m ²	No	See Clause 4.6

4.6 Exceptions to development standards

Floor Space Ratio

The following assessment of the variation to Clause 4.4 – Floor space ratio development standard and is assessed taking into consideration the questions established in *Winten Property Group Limited v North Sydney Council* (2001) NSW LEC 46.

Requirement	0.6:1 (122.16m ²)
Proposed	0.657:1 (133.9m ²)
Is the planning control in question a development standard?	Yes
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical
If numerical enter a % variation to requirement	9.6%

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

Is the planning control in question a development standard?

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

What are the underlying objectives of the development standard?

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

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

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

Comment: The bulk and scale of the proposed development is consistent with other two storey dwelling houses within Golf parade. Nos. 3, 5 and 7 Golf Parade maintain a similar if not larger bulk and scale. The proposed first floor extension does not result in a building that is unreasonable within the streetscape.

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

Comment: The proposed non-compliance is a result of the extension of the first floor, and is entirely within the existing building footprint. The works will not obscure any landscape features on site or in the close vicinity of the site.

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

Comment: The proposed first floor extension is towards the rear of the existing dwelling. The increase in gross floor area in conjunction with the other works proposed will not alter that existing character of the streetscape. A dwelling house that maintains a building height as well as bulk and scale that is consistent with the streetscape is not unreasonable.

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

Comment: The proposed development will not result in any unreasonable amenity impacts on adjoining properties in regards to views, privacy or overshadowing, subject to conditions.

- (e) *to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.*

Comment: Not applicable.

What are the underlying objectives of the zone?

In assessing the developments the non-compliance, consideration must be given to its consistency with the underlying objectives of the R1 General Residential zone.

The underlying objectives of Zone R1 General Residential:

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

The proposal will not affect the housing needs of the community.

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

The proposal maintains housing variety within the residential area.

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

Existing residential use remains unchanged.

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

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

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

Comment: The proposed development provides for an appropriate level of flexibility in applying the Floor Space Ratio development standard.

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

Comment: The proposed variation to the Floor Space Ratio allows for a more useable outdoor living space in a relatively dense area, thereby creating an improved outcome for the site, while retaining the existing residential use and density.

- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Comment: The applicant's written request outlines the reasons as to why compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development and provides the following environmental planning justification for the contravention of the development standard as follows:

"How is strict compliance with the development standard unreasonable or unnecessary in this particular case?"

The site is an undersized lot. Clause DCP 4.1.3.1 provides Exceptions to FSR for Undersized Lots. The ground floor area is a result of maintaining the existing footprint of the building. The proposed upper floor western wall is an extension of the existing and provides the necessary overhang and protection to the GF windows.

Are there sufficient environmental planning grounds to justify contravening the development standard? Give details.

Under DCP 4.1.3.1 Council may allow exceptions to the FSR calculation based on 250sqm lot size. Due to the site being significantly smaller than the minimum lot size, under DCP Clause 4.1.3.1 we request that the allowable FSR be calculated on the minimum lot size, which would result in an FSR of 0.56:1"

- (4) Development consent must not be granted for development that contravenes a development standard unless:
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*

Comment: The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3).

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

Comment: For reasons detailed above, the proposal is considered to be consistent with the objectives of the R1 General Residential zone in the MLEP 2013.

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

Comment: The Planning Circular, as issued by the NSW Department of Planning on 15/12/17, advises that the concurrence of the Director-General may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument if less than 10%. In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Director-General for the variation to the Floor Space Ratio Development Standard is assumed.

Part 5 Miscellaneous Provisions

Not applicable.

Part 6 Local Provisions

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

6.	Local Provisions	Applies	Complies	Comment
6.1	Acid Sulphate Soils	Yes	Yes	Class 4, The proposal complies with this clause.
6.2	Earthworks	Yes	Yes	The proposal complies with this clause, subject to conditions.
6.4	Stormwater Management	Yes	Yes	The proposal complies with this clause, subject to conditions.

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

There is no applicable Draft Planning Instrument.

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

Manly Development Control Plan 2013

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

Part 3 General Principles of Development

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

Comment:

3.4.1 Sunlight Access and Overshadowing

The proposal is consistent with the relevant objectives relating to Sunlight Access and Overshadowing in section 3.4 of the Manly DCP. The relevant objectives in the Manly DCP that relate to Sunlight Access and Overshadowing are as follows:

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

The proposed works allow for adequate sunlight to penetrate the subject site and surrounding development.

Objective 2) To allow adequate sunlight to penetrate:

- *private open spaces within the development site; and*
- *private open spaces and windows to the living spaces/ habitable rooms of both the development and the adjoining properties.*
- The proposed works provide equitable access to light and sunshine for the subject site, adjoining properties and public open space.

No.4 Golf Parade, Manly- Adjoining western property

The proposed works will increase overshadowing to the living rooms of the adjoining western property at 9am with no increase proposed between the hours of 12pm and 3pm during the winter solstice. The proposed overshadowing at 9am will overshadow all the living rooms windows on the ground floor. The north facing windows however will retain sunlight existing on both floors. The ground floor room facing the north facing windows on the ground floor is a living room, and as such is able to retain partial sunlight at 9am. Given this, the proposed development allows for 4 hours of solar access be maintained to living rooms for 4 hours from 9am to 3pm on the winter solstice consistent with Clause 3.4.1.2 of the Manly DCP.

The proposed works will not impact upon overshadowing to the outdoor living space of the adjoining western property from 9am-3pm during the winter solstice, and as such is compliant with this objective and the numerical control under Clause 3.4.1.1 of the Manly DCP.

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

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

The proposed first floor is setback from the ground floor on the southern side of the development, which may further reduce overshadowing impacts to adjoining properties.

3.4.2 Privacy and Security

The proposal is consistent with the relevant objectives relating to Privacy and Security in section 3.4 of the Manly DCP, subject to conditions. The relevant objectives in the Manly DCP that relate to Privacy and Security are 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.*

The proposed works retain reasonable privacy to the subject site and adjacent development, subject to conditions.

The proposed balcony on the first floor is designed so as mitigate the potential for direct overlooking to the adjoining property to the west (No. 4 Golf Parade). However, given the use of the balcony and the side setback proposed (1.2m to the western boundary) the balcony would result in unreasonable privacy (acoustic and visual) impacts to the adjoining western property (No. 4 Golf Parade)

In response to the privacy issue and having regard to MLEP 2013 and the MDCP 2013, the following recommendation is made to address the concerns raised:

ANS01

A minimum 1.6m high privacy screen is to be provided on the northern and western elevation of the first floor balcony as notated on the plans. The Plans are to be suitably amended, prior to the issue of any Construction Certificate.

Reason: To protect the visual privacy of adjoining properties.

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

The proposed balcony on first floor level and sliding doors on ground floor level allows for increased level of sunlight access for outdoor living space and living room, while not allowing privacy to be compromised for the subject site and adjoining properties, subject to conditions.

Objective 3) To encourage awareness of neighbourhood security.

The proposal retains an open frontage to allow for passive Surveillance.

Part 4 - Development Controls

Site Area:	203.6m ²	Permitted/ Required	Proposed	Complies Yes/No
Wall height	West side	6.5m	7m	Yes
	East side	6.5m	6.9m	Yes
Number of Storeys		2	2	Yes
Roof height		2.5m	0.4m	Yes
West setback side		2.33m	1.2m	No
East setback side		2.3m	0m	No
Setback Rear		8.0m	6.8m	Yes
Open space - total		Min. 55% of Site Area (111.98m ²)	43% (88m ²)	No
Open space - landscaped		Min. 35% of Total Open Space (30.8m ²)	35.2% (31m ²)	Yes
Open space - above ground		Max. 25% of Total Open Space (22m ²)	4.8m ²	Yes
Private Open Space		18m ²	88m ²	Yes

Comment:

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

The proposal is non-compliant with the control for side setbacks. An assessment of the proposal against the objectives for setbacks is 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.

The proposed works first floor is consistent with other two storey detached and semi-detached dwellings within the streetscape.

Objective 2) To ensure and enhance local amenity by:

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

The proposed works will retain privacy to adjoining properties, subject to conditions There is no unreasonable overshadowing impact that will result from the proposed works (see comments under Part 3 General Principles of Development).

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

Flexibility is given in this situation, as there is no unreasonable impacts that will result from the proposed development, subject to conditions.

Objective 4) To enhance and maintain natural features by:

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

The proposal is compliant with the numerical control relating to landscaped open space. There is no loss of important existing landscaping features on site.

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

Not applicable.

Given the above it is considered that the relevant setback and building separation objectives outlined in Clause 4.1.4 have been achieved, and is therefore considered acceptable on merit.

4.1.5 Open Space and Landscaping

The proposal is not compliant with the control relating to Total Open Space. An assessment of the proposal against the objectives for open space is as follows:

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

There is no reduction of any important existing landscape features on the 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.

The proposal maintains compliance with the Landscape Open Space provision under the Manly DCP.

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

The proposed works will retain privacy to adjoining properties, subject to conditions There is no unreasonable overshadowing impact that will result from the proposed works (see comments under Part 3 General Principles of Development).

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

The proposal retains reasonable levels of landscaped open space at ground level to the front and rear of the dwelling to minimise the stormwater runoff that may result from the proposed development.

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

The proposed private open space is compliant with the numerical requirements under the Manly DCP. The proposed works will not lead to an increased spread of weeds.

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

The subject site is not in the vicinity of any important wildlife corridors.

Given the above it is considered that the relevant open space objectives outlined in Clause 4.1.5 have been achieved, and is therefore considered acceptable on merit.

Part 5 - Special Character Areas and Sites

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

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

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

The proposed development has been assessed having regard to the Manly Local Environment Plan 2013 and the Manly Development Control Plan and is considered to be satisfactory.

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

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

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

The proposed development as modified by the conditions of consent is not considered to have any detrimental impacts on the natural and built environments and is accordingly recommended for approval.

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

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

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

The application was notified to nearby and adjoining property owners in accordance with Section 2.3 of Council's Development Control Plan 2013 with one (1) submission received from the following objector raising the following concerns:

Submission and Address	Main Issues raised in the submission	Comments on submission
1. Tim and Anne Evans (4 Golf Parade, Manly)	• <u>Maintaining solar access to living rooms.</u> • The proposed shadow diagrams show a loss of solar access to living rooms in both the winter as well as summer periods. • The proposed design fails to minimise potential unreasonable impacts of overshadowing.	• See comments related to Privacy and overshadowing under Part 3 General Principles of Development of this report. • Boundary fencing is a civil matter to be negotiated between relevant landowners. Council has no jurisdiction in this regard.

	• Instead the plan has an increase overall height to match #2A, a boxed shape design and has expanded westerly toward #4 property and northerly on the second floor. • <u>Privacy</u> • The proposed ground floor new living room window is sited almost opposite our east facing rear room window. A raising of the fence height by neighbour by about 200mm would elevate this privacy issue rather than resitting window further south. • There is concern over the complete loss of privacy to the rear open space of #4 with the proposed second floor extension including small balcony aligning with the eve of our single floor rear house boundary. • The property did not display a DA proposal notification sign.	• For further information regarding boundary fences, please refer to the <i>Dividing Fences Act 1991</i> (NSW). • To further reduce any potential unreasonable privacy impacts and having regard to MLEP 2013 and the MDCP, a suitable Condition of Consent (ANS01) has been included to address the visual privacy issue from the balcony.
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79C(1) (e) - the public interest.

The public interest is best served by the consistent application of the relevant environmental planning instruments and by the consent authority ensuring that any adverse impacts on the surrounding area are avoided. This is considered to have been achieved in this instance subject to the recommended conditions of consent.

S94 Contribution towards provision or improvement of amenities or services

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

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

Comments:

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

CONCLUSION:

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

RECOMMENDATION

In consideration of the written request made by the applicant pursuant to Clause 4.6 of the Manly Local Environmental Plan 2013, the consent authority is satisfied that compliance with the development standard contained in Clause 4.4 (Floor Space Ratio) of the Manly Local Environmental Plan 2013 is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify contravening the development standard.

That Development Application No. 247/2017 for alterations and additions to the existing dwelling at 2 Golf Parade, Manly be **Approved** subject to the following conditions:-

GENERAL CONDITIONS

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

Drawings affixed with Council's 'Development Consent' stamp relating to Development Consent No. 247/2017:

Plan No. / Title	Issue/ Revision & Date	Prepared By
DA01/ Site/Roof Plan and Site Analysis	Issue E/ 24 October 2017	Tanna Green Architects
DA02/ Ground Floor Plan	Issue E/ 24 October 2017	Tanna Green Architects
DA03/ Upper Floor Plan	Issue E/ 24 October 2017	Tanna Green Architects
DA04/ South Elevation	Issue E/ 24 October 2017	Tanna Green Architects
DA05/ North Elevation	Issue E/ 24 October 2017	Tanna Green Architects
DA06/ East Elevation	Issue E/ 24 October 2017	Tanna Green Architects
DA07/ West Elevation	Issue E/ 24 October 2017	Tanna Green Architects
DA08/ Section A-A	Issue E/ 24 October 2017	Tanna Green Architects

Reference Documentation relating to Development Consent No. 247/2017:

- BASIX certificate number: A2928552 dated 26 October 2017.

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

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

2. Prescribed Conditions

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

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

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

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

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

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

Reason: Legislative Requirement (DACPLB09)

GENERAL CONDITIONS RELATING TO APPROVAL

1A (1AP04)

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

Reason: To ensure compliance with the approved development.

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

ANS01

A minimum 1.6m high privacy screen is to be provided on the northern and western elevation of the first floor balcony as notated on the plans. The plans are to be suitably amended, prior to the issue of any Construction Certificate.

Reason: To protect the visual privacy of adjoining properties.

ANS02

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

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

ANS03

Stormwater shall be disposed of to an existing approved system or in accordance with Council's Manly Specification for on-site Stormwater Management. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

2A (2AP03)

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

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

3 (2CD01)

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

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

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

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

4 (2CD05)

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

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

5 (2CD07)

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

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

6 (2DS01)

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

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

7 (2FC01)

Any proposed fence between the building line and the street alignment is to be no more than 1.5m in height with 30% transparency above 1m. The fence and/or wall height may be averaged if the fence or wall is regularly stepped on sloping sites.

Reason: To reduce the impact of the fence on the street.

8 (2FP03)

No portion of the proposed building or works, as approved within the subject site, are to encroach upon any road reserve or other public land except as may be permitted by the Local Government Act 1993. This includes the opening and closing of gates and doors which must open and close within the subject site.

Reason: To ensure structures are contained within the site.

9 (2MS01)

Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, details including drawings and specifications must be submitted to Council accompanying the Construction Certificate, which provide adequate measures for erosion and sediment control. As a minimum, control techniques are to be in accordance with Manly Council Guidelines on Erosion and Sediment Control, or a suitable and effective alternative method. The Sediment Control Plan must incorporate and disclose:

- 1) all details of drainage to protect and drain the site during the construction processes,
- 2) all sediment control devices, barriers and the like,
- 3) sedimentation tanks, ponds or the like,
- 4) covering materials and methods, and
- 5) a schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.

Details from an appropriately qualified person showing these design requirements have been met must be submitted with the Construction Certificate and approved by the Council/Accredited Certifier prior to issuing of the Construction Certificate.

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

10 (2WM02)

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

The plan should detail the type and estimate the amount of demolition and construction waste and nominate how these materials will be sorted and dealt with. Weight dockets and receipts must be kept as evidence of approved methods of disposal and recycling. All demolition and excess construction materials are to be recycled where ever practicable.

It should include consideration of the facilities required for the ongoing operation of the premises' recycling and waste management services after occupation. A template is available from the Manly Council website.

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

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

11 (3BM01)

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

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

12 (3CD01)

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

Reason: To ensure compliance with statutory provisions.

13 (3CD02)

Demolition must be carried out by a registered demolition contractor. Documentary evidence of registration must be submitted to Council prior to the commencement of demolition work.

Reason: To ensure demolition is carried out in an appropriate manner that is non-disruptive to the locality and the public.

14 (3CD03)

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

Reason: To protect the public interest and safety.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

15 (4AP02)

A copy of all stamped approved drawings, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Reason: To ensure the form of the development undertaken is in accordance with the determination of Council, public information and to ensure ongoing compliance.

16 (4CD01)

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- 1) All demolition is to be carried out in accordance with Australian Standard AS 2601-2001.
- 2) Demolition must be carried out by a registered demolition contractor.
- 3) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out.
- 4) No blasting is to be carried out at any time during construction of the building.
- 5) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- 6) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

- 7) Any demolition and excess construction materials are to be recycled wherever practicable.
- 8) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- 9) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- 10) All waste must be contained entirely within the site.
- 11) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- 12) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- 13) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept on site as evidence of approved methods of disposal or recycling.
- 14) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
- 15) Public footways and roadways adjacent to the site must be maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
- 16) Building operations such as brick-cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
- 17) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.
- 18) Any work must not prohibit or divert any natural overland flow of water.

Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.

17 (4CD02)

In order to maintain the amenity of adjoining properties, audible site works must be restricted to between 7.00am and 6.00pm, Monday to Friday and 7.00am to 1.00pm Saturday (including works undertaken by external contractors). No site works can be undertaken on Sundays or public holidays.

Unless otherwise approved within a Construction Traffic Management Plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Reason: To prevent disturbance to the surrounding community.

18 (4CD03)

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.

Reason: To maintain sanitary conditions on building sites.

19 (4CD06)

All construction works must be strictly in accordance with the Reduced Levels (RLs) as shown on the approved drawings. A copy of approved drawings should be kept at site. Certification from a registered surveyor is to be submitted to the Principal Certifying Authority during construction to confirm floor and finished ridge levels.

Reason: To ensure compliance with the consent.

20 (4CD07)

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW. Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence.

All removal, repair or disturbance of or to asbestos material must comply with the following:

- The Work Health and Safety Act 2011.
- The Work Health and Safety Regulation 2011.
- How to Safely Remove Asbestos Code of Practice – WorkCover 2011.

The owner or occupier of the premises must consult an appropriately qualified and Australian Institute of Occupational Hygienists registered professional to undertake an assessment of the site to determine the potential for contamination. The owner or occupier must develop a management plan and be issued with Clearance Certificate before the commencement of any work.

Reason: To ensure the health of site workers and the public.

21 (4MS04)

An approved Erosion and Sediment Management plan is to be implemented from the commencement of works and maintained until completion of the development.

The design and controls addressed in the Sediment and erosion management plan must comply with the criteria identified in:

- Manly Development Control Plan 2013, Amendment 2, and
- Manly Councils Guidelines for Sediment and Erosion Controls on building sites, 2005, and
- The document "Managing Urban Stormwater: Soils and Construction" Volume 1, 2004.

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

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

ANS04

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

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

22 (5FR01)

An automatic fire detection and alarm system must be installed in the proposed dwelling in accordance with the requirements of the Building Code of Australia.

Reason: To comply with the Environmental Planning and Assessment Act 1979.

ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OR DEVELOPMENT

23 (6MS02)

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

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