

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/1528
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Responsible Officer:	Tony Collier
Land to be developed (Address):	Lot 11 DP 6817, 92 Lauderdale Avenue FAIRLIGHT NSW 2094
Proposed Development:	Demolition works and construction of a dwelling house including swimming pool
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Delegation Level:	DDP
Land and Environment Court Action:	No
Owner:	Edwina Clair Cobon
Applicant:	Edwina Clair Cobon

Application Lodged:	21/09/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Single new detached dwelling
Notified:	06/10/2022 to 20/10/2022
Advertised:	Not Advertised
Submissions Received:	7
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 3,091,000.00
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EXECUTIVE SUMMARY

This development application seeks consent for demolish the existing dwelling house and associated structures on the site and to construct a new part two/part three storey dwelling house which includes basement car parking, swimming pool and associated landscape and drainage works.

The application was exhibited between 6 October 2022 and 20 October 2022. A total of 7 submissions were received, one of which was in support.

The application is referred to the Development Determination Panel (DDP) due to the number of submissions received.

This report concludes with a recommendation that the DDP grant approval to the development application, subject to conditions.

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks consent to demolish the existing dwelling house and associated structures on the site and to construct a new part two/part three storey dwelling house which includes basement car parking, swimming pool and associated landscape and drainage works.

In detail, the development includes:

Dwelling

Basement (FFL 19.130)

- Double width garage access via a double width crossover (to be widened from the original single width).
- Access hallway to a lift.
- Storage.
- Stairwell.

Lower Ground Floor (FFL 21.700)

- Entrance.
- Rumpus Room.
- Study.
- Bathroom.
- Hallway to lift.
- Stairwells.

Ground Floor (FFL 24.700)

- Living Room/Rumpus.
- 1 x Bedroom at the rear.
- 3 x Bedrooms (including the Master Bedroom) accessing to a combined street-facing (i.e. south) balcony.
- 2 x Bathrooms.
- Ensuite.
- Walk-in Robe and storage.
- Stairwell.
- Terrace at the rear (i.e. north).
- Lift.

Level 1 (FFL 27.700)

- Open plan Living/Dining and Kitchen accessing to front (i.e. south) and rear (i.e. north) balconies.
- WC.
- Study nook.
- Lift.

External Works

Front (South)

- Retention of the existing sandstone wall facing the street.
- Lawn and landscape treatments.

Rear (North)

- Carparking hardstand (single space) accessed via an existing curved driveway from Willyama Avenue.
- Part below/part above-ground swimming pool.
- Terraced landscaping and landscape treatments.

Sides (East & west)

- Lawn with paved stepping stones.

ASSESSMENT INTRODUCTION

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

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Manly Development Control Plan - 3.4.1 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 - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle

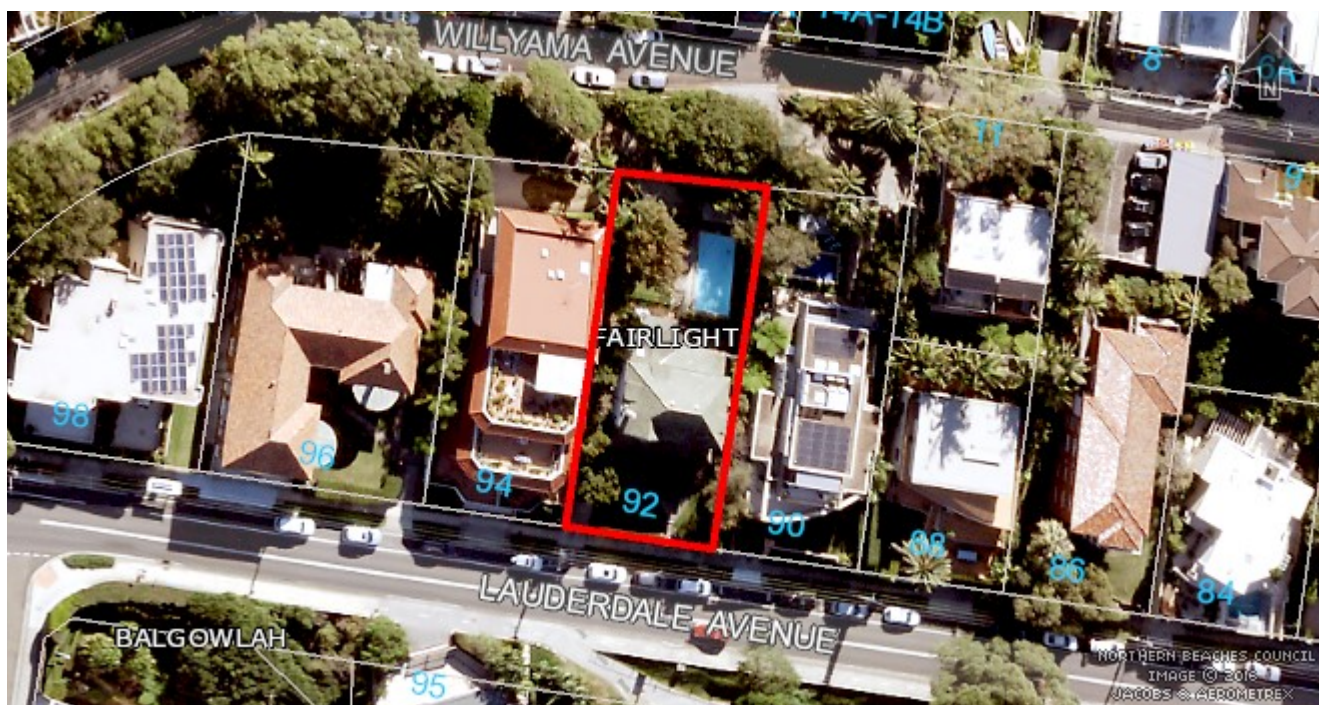
Facilities)

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

SITE DESCRIPTION

Property Description:	Lot 11 DP 6817 , 92 Lauderdale Avenue FAIRLIGHT NSW 2094
Detailed Site Description:	The subject site consists of one (1) allotment which has a dual frontage to Lauderdale Street (to the south) and Willyama Avenue (to the north). The frontage to Willyama Street is secondary. The site is regular in shape with a frontage of 18.095m along Lauderdale Street and an average depth of 45.12m. The site has a surveyed area of 824.9m². The site is located within the R1 General Residential zone and accommodates a two storey dwelling, garage, carport and swimming pool. The site is stepped up at the front (southern) boundary by a 2.75m high sandstone wall to accommodate the existing garage then slopes upward towards the rear (northern) boundary by 9.8m, flattening off within the rear yard to accommodate the existing swimming pool and adjacent lawn. The site contains a mix of native and exotic vegetation species including a Liquidambar located within the north-western corner (recorded as tree T2 which is scheduled for removal). Detailed Description of Adjoining/Surrounding Development Comensurate with the zone, adjoining and surrounding development is characterised by a mix of detached dwelling houses and flat buildings of varying size and age. The pedestrian entrance to Esplanade Park is situated on the opposite side of Lauderdale Street resulting a comparatively open section of the street to long views towards Wellings Reserve on the southern side of North Harbour.

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes since the subdivision of the Look Out Estate in 1912. The existing dwelling has been in situ since at least 1920.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Mainly Development Control Plan 2013 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 2021 (EP&A Regulation 2021)	Part 4, Division 2 of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent. Clause 29 of the EP&A Regulation 2021 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.

Section 4.15 Matters for Consideration	Comments
	<u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case. <u>Clause 61</u> of the EP&A Regulation 2021 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 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. <u>Clause 69</u> of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 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.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 06/10/2022 to 20/10/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 7 submission/s from:

Name:	Address:
Mr Robert James Marshall	16 B Willyama Avenue FAIRLIGHT NSW 2094
Stuart Nigel Codling Angela Codling	1 / 94 Lauderdale Avenue FAIRLIGHT NSW 2094
Mr Geoffrey John Leonard Perks Mrs Patricia Anne Perks	3 / 94 Lauderdale Avenue FAIRLIGHT NSW 2094
Mr Kenneth Charles Johnson Mrs Wendy Anna Johnson	4 / 94 Lauderdale Avenue FAIRLIGHT NSW 2094
Mrs Karin Jennifer Trope Mr Jonathan Ian Trope	1 / 90 Lauderdale Avenue FAIRLIGHT NSW 2094
Ms Joanne Susan Ampherlaw Nigel Ampherlaw	3 / 90 Lauderdale Avenue FAIRLIGHT NSW 2094
Mr Bruce Andrew Mansfield Mrs Marianne Mansfield	2 / 90 Lauderdale Avenue FAIRLIGHT NSW 2094

Of the 7 submissions received, 6 were in objection and 1 was in support.

The following issues were raised in the submissions:

- **View loss.**
- **Bulk and scale.**
- **Inconsistent with the aims of the LEP.**
- **Inconsistent with the objectives of the zone.**
- **Non-compliance with DCP controls:**
 - **Wall height.**
 - **Number of storeys.**
 - **Side setbacks (building separation).**
- **Visual privacy.**
- **Overshadowing.**
- **Excessive excavation.**
- **Stormwater.**
- **Insufficient information:**
 - **View impact analysis**
 - **Privacy impact analysis**

- **Solar access diagrams**
- **Visual bulk analysis.**
- **Geotechnical considerations.**
- **Loss of on-street parking.**

The above issues are addressed as follows:

- **View loss**

Concern is raised that the development would create unreasonable view loss.

Comment

This issue has been addressed elsewhere in this report (refer to Clause 3.4.3 'Maintenance of Views' under the Manly Development Control Plan 2013). In summary, it was considered that the the impact on views is minor, that there would be a measurable improvement to outlook, and that a more skillful design would not improve view sharing. Therefore, the view impact is considered to be acceptable and the view sharing reasonable.

Given this design outcome, and that the views from the three assessed neighbouring properties will remain extensive, it is considered that the proposal has sensitively responded to view sharing and that the view impact is therefore considered acceptable reasonable.

This issue does not warrant the refusal of the application.

- **Bulk and scale**

Concern is raised that the bulk and scale of the development is excessive, particularly along the side elevations.

Comment

The plan view of the development reveals a high level of articulation along both side elevations to incorporate 'ear' windows. These features break up the flat surface area of side walls and provide architectural interest (as well as providing for a high level of protection for visual privacy to neighbouring dwellings).

The development is also terraced at the front to respond to the sloping topography of the site and to compliment the terraced designs of the neighbouring flat buildings which also face Lauderdale Avenue.

In this respect, the bulk and scale of the development is not considered to be excessive, particularly given the afore-mentioned context.

This issue does not warrant the refusal of the application.

- **Inconsistent with the aims of the LEP**

Concern is raised that the proposal is not consistent with the aims of the LEP by virtue of the listed issues.

Comment

The aims of the Manly Local environmental Plan 2013 are contained under Clause 1.2(2)(a) & (b) which respectively state:

Clause 1.2(2)(a)

- *To promote a high standard of urban design that responds to the existing or desired future character of areas, and*
- *To foster economic, environmental and social welfare so that Manly continues to develop as an accessible, sustainable, prosperous, and safe place to live, work or visit, and*
- *To ensure full and efficient use of existing social and physical infrastructure and the future provision of services and facilities to meet any increase in demand, and*
- *To ensure all development appropriately responds to environmental constraints and does not adversely affect the character, amenity or heritage of Manly or its existing permanent residential population.*

The development has been considered against the above aims and is assessed as being consistent.

Clause 1.2(2)(b)

- *To provide and maintain a diverse range of housing opportunities and choices that encourages affordable housing to cater for an ageing population, changing demographics and all socio-economic groups, and*
- *To ensure high quality landscaped areas in the residential environment, and*
- *To encourage higher density residential development to be located close to major transport nodes, services and employment opportunities, and*
- *To maintain active retail, business and other non-residential uses at street level while allowing for shop top housing in centres and offices at upper floors in local centres.*

The development has been considered against the above aims and is assessed as being consistent.

This issue does not warrant the refusal of the application.

- **Inconsistent with the objectives of the zone**

Concern is raised that the proposal is not consistent with the objectives of the zone by virtue of the listed issues.

Comment

The objectives of the R1 General Residential zone state:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The development has been considered against the above objectives and is assessed as being consistent.

This issue does not warrant the refusal of the application.

- **Non-compliance with DCP controls:**

- **Wall height**
- **Number of storeys**
- **Side setbacks (building separation)**

Concern is raised with respect to the development not complying with the above-listed controls.

Comment

The issues of wall height and the number of storeys have been discussed elsewhere in this report (refer to Clause 4.1.2 'Height of Buildings' under the Manly Development Control Plan 2013). In summary, it was found that the development achieved consistency with the objectives of the clause and that the extent of non-compliance did not result in an unreasonable impact to adjacent private or public domains.

Side setbacks were found to comply with the requirements of Clause 4.1.4.2 of the Manly Development Control Plan 2013.

This issue does not warrant the refusal of the application.

- **Visual privacy**

Concern is raised that the development would have unreasonable impact upon privacy.

Comment

This issue has been addressed elsewhere in this report (refer to Clause 3.4.2 'Privacy and Security' under the Manly Development Control Plan 2013). In summary, areas were identified in the development which would result in overlooking. These areas have been considered and addressed by the imposition of conditions which require the installation of privacy screens, screen planting or both.

This issue does not warrant the refusal of the application subject to condition.

- **Overshadowing**

Concern is raised that the development would result in unreasonable overshadowing.

Comment

This issue has been addressed elsewhere in this report (refer to Clause 3.4.1 'Sunlight Access and Overshadowing' under the Manly Development Control Plan 2013). In summary, it was considered that the development would not result in an unreasonable level of overshadowing given the topography and north-south orientation of the site.

A condition is imposed which requires that the front privacy screen attached to the western edge of the upper floor balcony (adjacent to the living room) should be amended to include a lighter and more permeable screen which would allow ambient light and early morning sunlight to filter down into the side facing courtyard at No. 94 Lauderdale Avenue.

This issue does not warrant the refusal of the application subject to condition.

- **Excessive excavation**

Concern is raised with respect to the excavation proposed and that the excavation may result in damage to neighbouring properties.

Comment

The excavation is concentrated to the front section of the site to accommodate the double garage and the access tunnel/storage, and lift shaft.

The extent of excavation has been kept to a minimum with the tunnel and lift shaft being predominantly concentrated to within the south-western part of the site.

The application is accompanied by a Geotechnical Report which has assessed the site as suitable for the development and includes appropriate recommendations which include a requirement for dilapidation reports to be completed. The recommendations of the Report and a requirement for the preparation of dilapidation reports are included as a condition.

This issue does not warrant the refusal of the application subject to condition.

- **Stormwater**

Concern is raised

Comment

The stormwater design was considered by Council's Development Engineer who advised that the submitted stormwater management plan including OSD is acceptable. Therefore, Council's Development Engineering support the proposal, subject to conditions.

This issue does not warrant the refusal of the application subject to condition.

- **Insufficient information:**

- **View impact analysis**
- **Privacy impact analysis**
- **Solar access diagrams**
- **Visual bulk analysis**
- **Geotechnical considerations**

Concern is raised that the application does not provide sufficient information to be able to consider the proposal.

Comment

View impact analysis

A View Impact Analysis is provided on Pages 37 to 46 of the Statement of Environmental Effects in addition to the plans included with the plan set (refer to Plans A521, A522, and A523).

Privacy impact analysis

A Privacy Impact Analysis is provided on Pages 35 to 36 of the Statement of Environmental Effects.

Solar access diagrams

Solar Access diagrams are provided on Pages 33 to 34 of the Statement of Environmental Effects in addition to the plans included with the plan set (refer to Plans A511, A512, and A513).

Visual bulk analysis

A Visual Bulk Analysis is provided on Page 32 of the Statement of Environmental Effects.

Geotechnical considerations

A Geotechnical Report (refer to the 'Report on Geotechnical Site Investigation' dated 19 August 2022 as prepared by Crozier Geotechnical Consultants) was submitted with the application.

All the above documentation was exhibited on Council's website from the time of lodgment.

- **Loss of on-street parking**

Concern is raised that the development will result in a loss of on-street car parking due to the inclusion of a double garage on Lauderdale Avenue (which replaces an existing single garage).

Comment

This issue has been addressed elsewhere in this report (refer to Clause 4.1.6 'Parking, Vehicular Access and Loading' under the Manly Development Control Plan 2013). In summary, it was noted that the additional width of the crossover into the double garage will reduce the availability of on-street parking by one vehicle. However, as this was the primary parking area available to the dwelling (notwithstanding the less accessible rear parking space off Willyama Avenue) it was acknowledged that it is likely that the occupant of the property would park their second vehicle on Lauderdale Avenue thereby taking up an otherwise available on-street parking space anyway. Therefore, it is not considered to be a considerable impact to the provision of on-street parking to design and include that second space within the site.

This issue does not warrant the refusal of the application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The development application is for the demolition of the existing structures on the site and construction of a new dwelling house, including basement parking, new swimming pool to the rear, stormwater works and landscape works, as described and illustrated in the reports and plans. A Landscape Plan and a Arboricultural Impact Assessment accompany the application and are assessed as part of this Landscape Referral. Council's Landscape Referral section have considered the application against the Manly Local Environment Plan, and the following Manly DCP 2013 controls (but not limited to): • 3.3.1 Landscaping Design. • 3.3.2 Preservation of Trees or Bushland Vegetation. • 4.1.5 Open Space and Landscaping, including 4.1.5.2 (c) Minimum Tree Plantings where applicable. Landscape works are proposed across the site as illustrated in the Landscape Plans and no concerns are raised, except for the selection of tree species (Tuckeroo) which is an environmental weed and this

Internal Referral Body	Comments
	shall be substituted for a locally native tree species as imposed by conditions. Three locally native trees are required to satisfy 4.1.5.2 (c). The tree replacement planting shall be located in similar locations along the side boundaries that replace existing trees required to be removed. All landscape works upon structure (garage and OSD) shall provide adequate planters as imposed by conditions. Existing trees proposed to be removed are generally located along the side boundaries and these are trees of considerable height including: along the west boundary T1 - 6.5m high; T2 - 15.0m high; and T11-T14 - 4.0m to 7.0m high, and along the east boundary T3 - 9.0m high. The replacement tree planting is not proposed to achieve heights greater than the trees to be removed. The submitted Arboricultural Impact Assessment report recommends the removal of the following trees: • within the property: T1 - Lillypilly, T2 - Liquidambar, T3 - Willow Myrtle, T5 - Camellia, T11 and T14 - Lillypilly, T12 - Weeping Bottlebrush, and T13 - Lemon Scented TeaTree. • within the public road reserve: T6 - Canary Island Palm. Based on the findings of the Arboricultural Impact Assessment, no concerns are raised for the removal of existing trees within the property impacted by the proposed development works including T1, T3, T5, and T11 to T14. Existing tree T2 is an exempt species and does not require Council consent for management or removal. Replacement planting is required for the following: T1 and T3, as to be achieved under control 4.1.5.2 (c). Council does not support the removal of T6 as there is no arboricultural reason to remove this tree and this shall be retained and protected along with all other street trees on public land. Subject to conditions of consent, Landscape Referral do not raise objections to the landscape component of the development proposal.
NECC (Development Engineering)	The submitted stormwater management plan including OSD is acceptable. The proposed driveway crossing widening and garage off Lauderdale Ave is acceptable subject to conditions to limit the width of the crossing to maximise the on-street parking availability. The existing driveway crossing to the rear is to remain which is acceptable. Development Engineering support the proposal, subject to conditions as recommended.
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	The proposal has been referred to Heritage as it is within the

Internal Referral Body	Comments		
	vicinity of two heritage items:		
	Item I1 - Harbour foreshores - Manly municipal area boundary adjacent to the Harbour		
	Item I49 - Esplanade Park and Fairlight Pool - Fairlight Foreshore, North Harbour		
	Details of heritage items affected		
	Item I1 - Harbour foreshores <u>Statement of significance:</u> Natural landscape type - Aesthetic. <u>Physical description:</u> Length of foreshore including natural and built elements of the landscape. Rocky sandstone ledgers, beaches, mud flats and sandstone retaining walls and timber structures.		
	Item I49 - Esplanade Park and Fairlight Pool <u>Statement of significance:</u> Part of driveway setting leading up to 'Fairlight House' in the 1850's. Part of Manly's foreshore open space system. Aesthetic.		
	Other relevant heritage listings		
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
National Trust of Aust (NSW) Register	No		
RAIA Register of 20th Century Buildings of Significance	No		
Other	No		
Consideration of Application			
The proposal seeks consent for the demolition of the existing site structures and the construction of a new dwelling house, swimming pool and landscaping, including an extension to the existing single garage to accommodate double parking spaces, which involves the demolition of a portion of the existing sandstone wall at the street boundary.			
The existing property is an intact example of an Inter-War building, which dates back to c1919 (Statement of Heritage Impact by John Oultram Heritage & Design), and despite the later modifications it still retains its original features including majority of its internal			

Internal Referral Body	Comments		
	fabric and built form. The "Assessment of Significance" acknowledges that the dwelling is an interesting example of the Arts and Craft style and retains much of its original layout. However it concludes that the property would not meet any of the Heritage Manual criteria for identification as a place of local significance without demonstrating each criterion. Although, this conclusion is not completely agreed with, Heritage considers that the proposal will have a manageable impact upon the significance of the listed heritage items within the vicinity. Therefore, no objections are raised on heritage grounds, subject to one condition. <u>Consider against the provisions of CL5.10 of Manly LEP 2013.</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes <table><tr><th>Further Comments</th></tr><tr><td></td></tr></table>	Further Comments	
Further Comments			

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs 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 and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1327007S dated 2 September 2022). The BASIX Certificate is supported by an NatHERS Certificate (see Certificate No.

NKQXWP8W5X dated 2 September 2022) which indicates that the dwelling will achieve a energy efficiency rating of 5.9 stars (average).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	51

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 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 who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

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
Height of Buildings	8.5m	3.6m to 8.3m
Floor Space Ratio*	0.5:1 (412.45m ²)	0.47:1 (390.1m ²)

***Note:** The GFA Diagrams (Plan A501) nominate a car parking space as GFA. This is to be excluded

from the calculation as per the LEP definition.

Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.6 Exceptions to development standards	N/A
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.12 Essential services	Yes

Mainly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 824.9m ²	Requirement	Proposed	% Variation*	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwelling/300m ²	1/824.9m ²	N/A	Yes
	Dwelling Size (Minimum): 90m ²	390.1m ² (GFA)	N/A	Yes
4.1.2.1 Wall Height (Gradient 1:4.6)	East: 5.2m	6.0m to 7.9m	52%	No
	West: 8.0m	5.9m to 8.0m	N/A	Yes
4.1.2.2 Number of Storeys	2	Part 2/Part 3	100%	No
4.1.2.3 Roof Height	Height: 2.5m	1.7m	N/A	Yes
	Parapet Height: 0.6m	0.3m	N/A	Yes
	Pitch: Maximum 35 degrees	7 degrees	N/A	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line or 6.0m	Basement	N/A	Yes
		Nil	N/A	Yes
		Lower Ground 6.5m	N/A	Yes
		Ground 6.3m	N/A	Yes
4.1.4.2 Side Setbacks	East: 2.0m to 2.6m West: 2.0m to 2.7m	Level 1 7.6m	N/A	Yes
		2.2m to 2.8m 2.6m to 3.2m	N/A N/A	Yes Yes
	Windows: 3.0m	East: >3.0m West: >3.0m	N/A N/A	Yes Yes

4.1.4.4 Rear Setbacks	8.0m	Ground Terrace: 16.9m Dwelling: 21.1m Level 1 Waste Area: Nil Car Space: 1.3m Pool: 4.2m Balcony: 18.3m Dwelling: 21.6m	N/A N/A N/A N/A N/A N/A N/A	Yes Yes Yes Yes Yes Yes Yes
4.1.5.1 Minimum Residential Total Open Space (TOS) Residential Open Space Area: OS3	TOS: 55% (453.7m ²)	58.2% (480.3m ²)	N/A	Yes
	Above Ground: 25% Max TOS (113.4m ²)	75.5%	N/A	Yes
4.1.5.2 Landscaped Area	35% TOS (158.8m ²)	91.2% (414m ²)	N/A	Yes
	4 native trees	4 trees	N/A	Condition
4.1.5.3 Private Open Space	18m ²	>18m ²	N/A	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	37% 6.7m	8.1% (+0.5m)	No
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	1.6m	60%	No
	1m curtilage/1.5m water side/rear setback	Side: 3.7m Rear: 4.2m	N/A N/A	Yes Yes
Schedule 3 Parking and Access	2 spaces	2 spaces	N/A	Yes

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 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	N/A	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	No	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	N/A	Yes
3.5.1 Solar Access	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.5.3 Ventilation	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	N/A	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	N/A	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	Yes	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	No	Yes
4.4.1 Demolition	N/A	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

Detailed Assessment

3.4.1 Sunlight Access and Overshadowing

Clause 3.4.1 requires:

3.4.1.1 Overshadowing Adjoining Open Space

In relation to sunlight to private open space of adjacent properties:

- *New development (including alterations and additions) must not eliminate more than one third of the existing sunlight accessing the private open space of adjacent properties from 9am to 3pm at the winter solstice (21 June) ; or*
- *Where there is no winter sunlight available to open space of adjacent properties from 9am to 3pm, the calculations for the purposes of sunlight will relate to the equinox in March and September from 9am to 3pm.*

and

3.4.1.2 Maintaining Solar Access into Living Rooms of Adjacent Properties

In relation to sunlight to the windows or glazed doors to living rooms of adjacent properties:

- for adjacent buildings with a north-south orientation, the level of solar access presently enjoyed must be maintained to windows or glazed doors of living rooms for a period of at least 4 hours from 9am to 3pm on the winter solstice (21 June);*
- for all adjacent buildings, no reduction in solar access is permitted to any window where existing windows enjoy less than the minimum number of sunlight hours specified above.*

Comment

94 Lauderdale Avenue

Unit 1/94 Lauderdale Avenue

The north-south orientation of the site facilitates a high level of compliance with respect to sunlight access and overshadowing. The neighbouring properties to the east and west comprise multi-level residential flat buildings and it is noted that a submission received from the lower floor unit (Unit 1) at No. 94 Lauderdale Avenue raises concerns regarding overshadowing.

An inspection of that unit (as a consequence of a view loss issue) identified that the concerns are related to the sunlight filtration (through boundary trees) into the side courtyard and windows at 9.00am (the inspection of that unit occurred at around 9.30am on 25 January 2023). The inspection found that sunlight did filter through the boundary trees into the side-facing courtyard and, to a limited extent, into the side facing bedroom window which is located towards the rear of the unit. Sunlight into the courtyard was directly filtered and ambient due to the part overhang of the roof over the courtyard.

With respect to the function of the side-facing courtyard, it was noted that the feature largely performed as a an access to the main terrace which is located to the south (front) of the unit although it was also noted that the courtyard functioned as a partially shaded outdoor private open space area which offered ready access from the living room.

In terms of the degree of overshadowing resulting from the development, the following is noted for Unit 1/94 Lauderdale Avenue:

Time (21 June)	Existing Shadow	Proposed Shadow
9.00am	100%	100% (new shadow over upper floor balcony)
Noon	Self shadow	Self shadow (no additional impact)
3.00pm	Self Shadow	Self shadow (no additional impact)

The above indicates that Unit 1 would not experience addition shadow on 21 June although the shadow diagrams indicate that the development would cast a new shadow on the eastern side of the sloping balcony edge to the balcony to Unit 3 above. This additional shadow is derived from the proposed skillion roof form.

Although the above notes three distinct hours, the transit of the sun between 9.00am and Noon would allow for sunlight to filter into the side facing courtyard between 10.00am and 11.00am (approx.) as the sun would be diagonally over the side setback area between the two buildings.

Notwithstanding, it is considered that the front privacy screen attached to the western edge of the upper floor balcony (adjacent to the living room) should be amended to include a lighter and more permeable screen which would allow ambient light and early morning sunlight to filter down into the side facing courtyard. This has been addressed by condition.

90 Lauderdale Avenue

Unit 1 (RL 22.75)

Unit 1 is located above the ground floor carpark and is the bottom level unit in the block.

The plans for the property reveal that the living room is located at the western side of the floor and three bedrooms located at the eastern side of the floor. The living room and Bedroom 1 access onto a south-facing terrace. Other rooms (dining room, bedrooms and study) are located within the rear part of the unit which is partially excavated into the site. The rear rooms are therefore partially below the sloping ground level with the study and the dining room accessing a smaller terrace situated in the north-western corner of the site.

An examination of the shadow diagrams indicate the following (the western elevation is considered only):

Time (21 June)	Existing Shadow	Proposed Shadow
9.00am	Self shadow	No additional impact
Noon	Limited sunlight to rear facing windows	No additional impact
3.00pm	Overshadowing from existing dwelling	Partial shadow over dining room window

The above table indicates that the development would not create any unreasonable shadow. The only discernable additional shadow could be cast over the north-facing dining room window which is partly sunken into the site and shaded by the retaining wall and plantings. This window will continue to receive the same level of sunlight access between Noon and 2.00pm.

Unit 2 (RL 25.75)

Unit 2 is located mid-level in the block and has a southern orientation as Unit 3 above wraps around the rear to form a two storey north-facing element. Therefore, no direct northern sunlight access is available to Unit 2.

Like Unit 1, the plans for the property reveal that the living room is located at the western side of the floor and three bedrooms are located at the eastern side of the floor. Both rooms access onto a south-facing terrace. Other rooms (dining room and study) are located within the western side of the unit which is sited at ground level. A wrap-around terrace is situated at the western side and front of the unit commencing from the dining room.

An examination of the shadow diagrams indicate the following (the western elevation is considered only):

Time (21 June)	Existing Shadow	Proposed Shadow
9.00am	Self shadow	No additional impact
Noon	Sunlight to rear facing windows	No additional impact
3.00pm	Overshadowing from existing	Partial shadow over dining room

	dwelling	window
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The above table indicates that the development would not create any unreasonable shadow. Like Unit 1, the only discernable additional shadow could be cast over the north-facing dining room window which is sited at ground level. This window will continue to receive the same level of sunlight access between Noon and 2.00pm.

Unit 3 (RL 28.75)

Unit 3 is located at the top floor in the block and wraps around the rear to form a two storey north-facing element.

The plans for the property reveal that the living room is located at the southern side of the floor and a family room, three bedrooms and a rumpus room are located at the northern side of the dwelling. The north-facing rooms access onto a ground floor terrace within the rear yard.

An examination of the shadow diagrams indicate the following (the western elevation is considered only):

Time (21 June)	Existing Shadow	Proposed Shadow
9.00am	Self shadow	No additional impact
Noon	Full sunlight access to the rear	No additional impact
3.00pm	Full sunlight access to the rear	No additional impact

The above table indicates that the development would not create any additional and unreasonable shadow to Unit 3.

Conclusion

The above assessment considers that the shadow impact to neighbouring properties to be negligible to minor.

With respect to 94 Lauderdale Avenue, Unit 1 will not experience any additional shadow between the nominated hours of 9.00am to 3.00pm on 21 June due to the shadows cast by the existing dwelling on the subject site and the self-shadowing caused by the flat building at No. 94 Lauderdale Avenue.

Notwithstanding, it is considered that the front privacy screen attached to the western edge of the upper floor balcony (adjacent to the living room) should be amended to include a lighter and more permeable screen which would allow ambient light and early morning sunlight to filter down into the side facing courtyard. This has been addressed by condition.

With respect to 90 Lauderdale Avenue, Units 1 and 2 will experience transient shadow over the rear facing dining room windows (located at the north-western corner of each unit) however, this is caused by the roof of the terrace to the proposed dwelling. The sides of the terrace are open and it is estimated that this will enable sunlight to continue to filter through and onto the dining room windows between 2.00pm and 3.00pm.

Unit 3 is elevated and will not experience any adverse shadow impact.

3.4.2 Privacy and Security

Balcony (Level 1)

The proposed dwelling has been designed to respond to its medium to high density context by orienting side windows towards the south (front). This design effectively directs viewing away from the windows and outdoor areas of neighbouring dwellings without employing the need to additional privacy screens.

It is noted that the rear (north-facing) balcony at Level 1 does not include any privacy treatments at either side and, because of its elevated nature and proximity to side boundaries (between 2.7m and 3.0m) it is considered that privacy screens should be incorporated into the design to prevent any overlooking opportunity. In order to enable sunlight penetration, the screens are to be of a lightweight and permeable design such as obscure glazing.

This has been conditioned accordingly.

Pool Terrace

The development includes an elevated pool terrace and walkway adjacent to the western boundary. The pool terrace and walkway are sited at Level 1.

These features have the ability to create an overlooking opportunity into habitable rooms of the neighbouring property to the west. As such, it is considered reasonable to include a condition requiring the installation of a privacy screen along the full length of the elevated walkway.

Furthermore, due to the terracing within the rear yard and the potential to overlook (and be overlooked), it is considered appropriate to include a condition which requires the installation of screen planting along the eastern and western sides of the property adjacent to both boundaries.

This has been conditioned accordingly.

3.4.3 Maintenance of Views

Merit consideration

Clause 3.4.3 requires:

- *The design of any development, including the footprint and form of the roof is to minimise the loss of views from neighbouring and nearby dwellings and from public spaces.*
- *Views between and over buildings are to be maximised and exceptions to side boundary setbacks, including zero setback will not be considered if they contribute to loss of primary views from living areas.*
- *Templates may be required to indicate the height, bulk and positioning of the proposed development and to assist Council in determining that view sharing is maximised and loss of views is minimised. The templates are to remain in place until the application is determined. A registered surveyor will certify the height and positioning of the templates.*
- *The ultimate assessment of views and view loss in this plan must be in accordance the planning principle established by the NSW Land and Environment Court.*

The development is considered against the Objectives of the Control:

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

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.*

Submissions were received from the following properties with respect to view loss:

- 1/94 Lauderdale Avenue (First Floor - Occupies the eastern half of the level).
- 3/94 Lauderdale Avenue (Second (middle) Floor - Occupies the entire level)
- 4/94 Lauderdale Avenue (Third (top) Floor - Occupies the entire level).

No submission was received from 2/94 Lauderdale Avenue which occupies the western half of the first floor.

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of *Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140*, are applied to the proposal.

Step 1

"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

Each apartment enjoys immediate water views of North Harbour and distant views of the ocean. Both views are whole views and include water and land interface with Balgowlah Heights to the south and the Sydney Harbour National Park to the south-east.

As the building height increases, the views become more expansive from Units 3 and 4 to include distant views of North Head to the south-east.

Step 2

"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

1/94 Lauderdale Avenue

Views are obtained from the Living Room and terrace. A view is also obtained from a corner balcony to the master bedroom which is located on the upper level of the unit.

The view obtained from the living room is more restricted than the view obtained from the terrace due to its recessing back into the property and the deep extent of the terrace and solid balustrade.

Furthermore, views are limited by the prevalence of trees which are located along the eastern edge of the neighbouring property boundary and within the front setback. This limits views to within a cone to the south-east and to the south and south-west (district views).

Sitting views are limited due to the afore-mentioned shallow angle. Standing views do increase the downward view into North Harbour but the expansiveness of views remain restricted by the afore-mentioned trees.

The view from the corner balcony (to the bedroom) is more extensive due to its elevated aspect relative to the downstairs living room, however, these views are limited to the south and south-east due to the afore-mentioned vegetation on the boundary. Views from a sitting or standing position are similar due to the shallower depth of the balcony.

	
View south from Living Room	Upstairs balcony (view to the

3/94 Lauderdale Avenue

Views are obtained from the open plan living room and dining room, and from the terrace. Outlook is obtained from the kitchen which includes a view of Balgowlah Heights.

The living room is recessed back from the southern edge of the terrace by approximately 6.0m resulting in a shallow view angle in both a standing and sitting position. In a standing position, downward water views are available of the North Harbour. This outlook diminishes to a view of Balgowlah Heights and a shallower angle of view of North Harbour.

The view from the terrace is more extensive due to its forward location, particularly from a standing position.

A limited side view is obtained from the two east-facing living room windows although this view is over a side boundary which is filtered and restricted by the existing dwelling on the subject site and vegetation.

A narrow view is obtained from a dining nook within a bay window which is located adjacent to the kitchen. Due to the angle and location of the bay window, and the proximity of vegetation, the view is directed to the south over the side boundary and provides a filtered view of North Harbour.

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View south-east from Living Room terrace



View south from Living Room



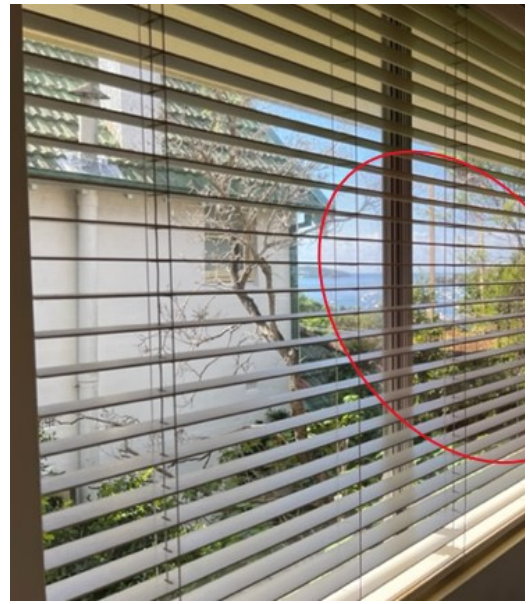
View south from Living Room (Sitting)



View to south-east through side window



View south from side bay window (height poles circled)



View south-east from side window

4/94 Lauderdale Avenue

Views are obtained from the open plan living room and dining room, and from the terrace. Outlook is obtained from the kitchen which includes a view of Balgowlah Heights.

The living room is recessed back from the southern edge of the terrace by approximately 10.0m resulting in a shallow view angle in both a standing and sitting position. In a standing position, downward water views are available of the North Harbour. This outlook diminishes to a view of Balgowlah Heights and a shallower angle of view of North Harbour.

The view from the terrace is more extensive due to its forward location, and from both a sitting and standing position.

A limited side view is obtained from the two east-facing living room windows although this view is over a side boundary which is filtered and restricted by the the pitched roof of the existing dwelling on the subject site and the tops of vegetation.



View south-east from terrace	View south from terrace (height)
	
View south-east from side window of Living Room (roof line indicated)	View south from Living Room

Step 3

"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

1/94 Lauderdale Avenue

The lower ground floor and ground floor levels of the development are situated adjacent to Unit 1.

The development extends the building line forward by 3.6m (ground floor) to 5.1m (lower ground floor) which generally aligns with the front of the living room and upper floor bedroom to Unit 1. The terrace and upper floor balcony of Unit 1 extend forward of the proposed building line.

The view to the south from the living room, terrace and upper floor balcony will remain unobstructed. The eastern view over the side boundary will be obstructed from the lower level side facing windows (which are currently obstructed by an existing boundary fence and vegetation) although the diagonal view to the south-east will open up due to the removal of vegetation.

3/94 Lauderdale Avenue

Level 1 of the development is situated adjacent to Unit 3.

The development extends the building line forward by 2.1m (Level 1) and includes side walls and a louvered privacy screen to the proposed terrace which extend the wall structure to 5.3m from the existing building line. This generally aligns to a mid-point in the terrace to Unit 3 and forward of the living room by 4.2m.

The view to the south from the living room and terrace will remain unobstructed. The view to the south-east from the terrace will be partly obstructed although this view will remain available from the southern half of the terrace.. The eastern view over the side boundary from the side facing windows and the breakfast nook will be obstructed as a result of the development.

4/94 Lauderdale Avenue

The proposed skillion roof is situated adjacent to Unit 4.

The skillion roof has its highest point to the rear of the proposed dwelling which is located adjacent to the front building alignment of Unit 4. The roof then angles down to the flat roof of Level 1.

The view to the south from the living room and terrace will remain unobstructed. The downward view to the south-east from the side-facing living will be partly obstructed although the horizontal and distant views to the south-east will become more available due to the removal of the existing pitched roof (which currently obstructs a large proportion of that view).

Step 4

"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

1/94 Lauderdale Avenue

Views obtained from Unit 1 are currently restricted to the south and (to a more limited extent) to the east due to boundary fencing and vegetation. Although the proposed building alignment is located forward of the existing building alignment, the impacted views are limited and the development would not unreasonably diminish this, particularly given that these limited views are across a side boundary. Unit 1 will continue to obtain water and district views to the south and south-east from the living room, terrace, bedroom and balcony.

In this respect, it is considered that the impact on views is minor and that a more skillful design would not improve view sharing. Therefore, the view impact is considered to be acceptable and the view sharing reasonable.

3/94 Lauderdale Avenue

The development will impact on views to the east from Unit 3 although this view is across a side boundary and from side-facing windows which are secondary to the main window and view which is to the south and south-east. Unit 3 will continue to obtain water, headland, and district views to the south and south-east from the living room and terrace.

In this respect, it is considered that the impact on views is minor and that a more skillful design would not improve view sharing. Therefore, the view impact is considered to be acceptable and the view sharing reasonable.

4/94 Lauderdale Avenue

The development will impact upon views to the south-east although this view is across a side boundary

and from side-facing windows which are secondary to the main window and view which is to the south and south-east. Unit 4 will continue to obtain water, headland, and district views to the south and south-east from the living room and terrace and, through the removal of the pitched roof on the subject site, obtain an improved outlook to the east and south-east.

In this respect, it is considered that the impact on views is minor, that there would be a measurable improvement to outlook, and that a more skillful design would not improve view sharing. Therefore, the view impact is considered to be acceptable and the view sharing reasonable.

Given this design outcome, and that the views from the three assessed neighbouring properties will remain extensive, it is considered that the proposal has sensitively responded to view sharing and that the view impact is therefore considered acceptable reasonable.

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

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

Description of Non-Compliance

Clause 4.1.2.1 requires that development achieves a wall height of 5.2m along the eastern elevation. The development proposes a wall height of between 6.0m and 7.9m along the eastern elevation.

Clause 4.1.2.2 requires development to provide a maximum of 2 storeys.

The *Manly Local Environmental Plan 2013* defines a storey as meaning:

"A space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include:

- (a) a space that contains only a lift shaft, stairway or meter room, or*
- (b) a mezzanine, or*
- (c) an attic".*

The development includes a vertical section approximately 1.5m wide at the front of the dwelling which includes part of the rear garage, the ground floor level and Level 01 all of which amounts to 3 storeys.

Merit Consideration

With regard to the consideration for a variation, the development is considered against the underlying Objectives of Clause 4.3 of the MLEP 2013 (as directed by Clause 4.1.2) as follows:

- ***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 development includes an overall height of between 3.6m and 8.3m which is compliant with the permitted building height in the area (being 8.5m). Additionally, the development includes a skillion roof form which angles down towards the front parapet of the dwelling.

Both features are consistent with other development in the area which addresses the topographic landscape, prevailing building height and desired future streetscape character in the locality.

The development is considered to be consistent with this objective.

- ***To control the bulk and scale of buildings.***

Comment

The dwelling is stepped back per level such that a reasonable degree of vertical articulation is provided at the front of the dwelling. This approach is consistent with other development in the area and appropriately responds to the topography of the site as it approaches the street edge. Furthermore, the development includes a high level of articulation along both side elevations to incorporate 'ear' windows. These features break up the flat surface area of side walls and provide architectural interest (as well as providing for a high level of protection for visual privacy to neighbouring dwellings).

The 3rd storey component is a relatively minor breach given its 1.5m wide depth and, because of the stepped design which diminishes the visual appearance of the non-compliance, does not unreasonably add to the bulk and scale of the building.

The development is considered to be consistent with this objective.

- ***To minimise disruption to the following:***
 - ***Views to nearby residential development from public spaces (including the harbour and foreshores).***
 - ***Views from nearby residential development to public spaces (including the harbour and foreshores).***
 - ***Views between public spaces (including the harbour and foreshores).***

Comment

This has been addressed in detail under Clause 3.4.3 of the MDCP 2013 where it was considered that the development would not unreasonably impact upon the sharing of views from neighbouring properties.

The proposed breach to the wall height has been assessed with respect to an overall impact upon views where it was found that the wall height did not unreasonably impact upon view sharing.

The 3rd storey component occurs at the front of the dwelling but this does not represent an unreasonable impact to view sharing from the two neighbouring flat buildings to the east and west. It is noted that the development removes the existing steep 40° roof pitch which opens up views from properties to the rear which overlook the site. The proposed skillion roof and the 3rd storey component will not diminish this new viewing opportunity.

The development is considered to be consistent with this objective.

- ***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

This has been addressed in detail under Clause 3.4.1 of the MDCP 2013 where it was considered that the development would not unreasonably impact upon the sharing of views from neighbouring properties.

The proposed breach to the wall height has been assessed with respect to overshadowing where it was found that the wall height did not unreasonably impact upon sunlight access.

The 3rd storey component is situated at the front of the dwelling and, given the north-south orientation in conjunction with the sun angles between 9.00am and 3.00pm on 21 June, will not generate any unreasonable overshadowing of habitable and/or principle private open space areas of neighbouring properties.

The development is considered to be consistent with this objective.

- ***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 site is not located within a recreation or environmental protection zone.

This objective is not relevant to the proposal.

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

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

Description of Non-Compliance

The site currently accommodates a single garage which is excavated into the front setback beneath an elevated front lawn and terrace area.

The development includes a new double garage which is to be excavated in the same area as the existing garage. This will increase the width of the garage and crossover at the street from 3.2m to 6.7m. The 0.5m additional width is in breach of the requirement of the control which stipulates a maximum width of 6.2m. This equates to a variation of 8.1%.

Merit Consideration

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

- ***To provide accessible and adequate parking on site relative to the type of development and the locality for all users (residents, visitors or employees)***

Comment

The development introduces an additional on-site parking space which complies with the parking requirements for a dwelling house under Schedule 3 of the Manly Development Control Plan 2013. Although it is noted that a third parking space is located at the rear (off Willyama Avenue) this is a less accessible parking space due to the sloping topography of the existing driveway into that space.

The double garage at the front of the site includes an access tunnel to a lift which accesses the

dwelling above.

The development is considered to be consistent with this objective.

- ***To reduce the demand for on-street parking and identify where exceptions to onsite parking requirements may be considered in certain circumstances***

Comment

The additional width of the crossover into the double garage will reduce the availability of on-street parking by one vehicle.

Council's Development Engineer has imposed a condition which requires the width of the driveway crossover to be reduced to 4.5m to maximise the provision of on-street parking.

The development is considered to be consistent with this objective subject to condition.

- ***To ensure that the location and design of driveways, parking spaces and other vehicular access areas are efficient, safe, convenient and are integrated into the design of the development to minimise their visual impact in the streetscape***

Comment

The double garage is designed to maintain the streetwall appearance which is currently evident. The double garage allows for a more effective access/egress than is currently available, including more room to maneuver.

The development is considered to be consistent with this objective.

- ***To ensure that the layout of parking spaces limits the amount of site excavation in order to avoid site instability and the interruption to ground water flows***

Comment

The development requires further excavation to accommodate the additional width of the double garage although this is limited to within the south-western third of the site. However, this does not interfere with ground water or the flow of ground water due to the elevation of the site.

The development is considered to be consistent with this objective.

- ***To ensure the width and number of footpath crossings is minimised***

Comment

The development increases the width of the footpath crossing from 3.2m to 6.7m (i.e. an additional 0.5m). The development maintains the provision of a single crossover.

The development is considered to be consistent with this objective.

- ***To integrate access, parking and landscaping; to limit the amount of impervious surfaces and to provide screening of internal accesses from public view as far as practicable through appropriate landscape treatment***

Comment

The landscaped area is elevated above the carparking area to form a terrace. This is representative of the current arrangement and the development will not conflict with the

requirements of this objective.

The development is considered to be consistent with this objective.

- ***To encourage the use of public transport by limiting onsite parking provision in Centres that are well serviced by public transport and by encouraging bicycle use to limit traffic congestion and promote clean air***

Comment

The site is not located within a centre.

This objective is not relevant to the proposal.

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

4.1.9 Swimming Pools, Spas and Water Features

Description of Non-Compliance

Clause 4.1.9 requires swimming pools to be elevated not more than 1.0m above natural ground level. The southern edge of the proposed swimming pool is elevated approximately 1.6m above ground level (natural ground level cannot be ascertained due to the site being developed over time and the ground levels being altered).

The northern edge of the pool is sited at or just below ground level.

Merit Consideration

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

- ***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 pool area is elevated in a terraced format such that it will be possible to view into the rear of Unit 3 at No. 90 Lauderdale Avenue. In this respect, a condition is included to require screen planting to be installed along the eastern edge of the property (between the pool and side boundary) to address this issue.

The development will satisfy this objective subject to condition.

- ***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 located at the rear of the site and away from Lauderdale Avenue. The swimming pool is below the street level of the Willyama Avenue which is located to the north

and will not be visible from that street such that it will not adversely impact on the streetscape or the established character of the locality.

The development will satisfy this objective.

- ***To integrate landscaping.***

Comment

The development includes a considered and integrated landscape theme which involves the terracing the rear yard to respond to the topography of the site. The swimming pool is integrated into this terracing.

The development will satisfy this objective.

- ***To become an emergency water resource in bush fire prone areas.***

Comment

The site is not located within a bush fire prone area.

This objective is not relevant to the proposal.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect 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

Northern Beaches Section 7.12 Contributions Plan 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$30,910 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$3,091,000.

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 2021;
- 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

PLANNING CONCLUSION

This proposal, for the demolition of the existing dwelling house and associated structures on the site and the construction a new part two/part three storey dwelling house which includes basement car parking, swimming pool and associated landscape and drainage works, has been referred to the Development Determination Panel (DDP) due to the number of submissions being received.

Seven (7) public submissions were received.

Referral responses provided raise no objection to the approval of the development subject to conditions.

The critical assessment issues have been considered in detail in terms of views, building bulk, privacy, overshadowing, and carparking.

Overall, the development is considered to be of a reasonable and sensitive design that is satisfactory in terms of the LEP and DCP controls and will not result in unreasonable impacts on the amenity of adjoining or nearby properties, or the natural environment.

The proposal is therefore recommended for approval.

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 DA2022/1528 for Demolition works and construction of a dwelling house including swimming pool on land at Lot 11 DP 6817, 92 Lauderdale Avenue, 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 with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
A030 (Revision DA01) - Demolition Plan	31 August 2022	Archer Office Pty Ltd
A050 (Revision DA01) - Site Plan	31 August 2022	Archer Office Pty Ltd
A101 (Revision DA01) - Basement Floor Plan	31 August 2022	Archer Office Pty Ltd
A102 (Revision DA01) - Lower Ground Floor Plan	31 August 2022	Archer Office Pty Ltd
A103 (Revision DA01) - Ground Floor Plan	31 August 2022	Archer Office Pty Ltd
A104 (Revision DA01) - Level 1 Plan	31 August 2022	Archer Office Pty Ltd
A105 (Revision DA01) - Roof Plan	31 August 2022	Archer Office Pty Ltd
A201 (Revision DA01) - South & East Elevation	31 August 2022	Archer Office Pty Ltd
A202 (Revision DA01) - North & West Elevation	31 August 2022	Archer Office Pty Ltd
A301 (Revision DA01) - Section A	31 August 2022	Archer Office Pty Ltd
A302 (Revision DA01) - Section B	31 August 2022	Archer Office Pty Ltd
A601 (Revision DA01) - Material Schedule	31 August 2022	Archer Office Pty Ltd

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Report on Geotechnical Site Investigation (No. 2022-176)	19 August 2022	Crozier
Arboricultural Assessment Report (No. 22-052)	2 September 2022	Earthscape Horticultural Services
BASIX Certificate No. 1327007S	2 September 2022	Ella Fairbairn

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

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

Landscape Plans		
Drawing No.	Dated	Prepared By
L-DA-01 (Revision D) - Landscape Schedule & Notes	1 September 2022	360°
L-DA-04 (Revision D) - Landscape Plan - Lower Ground	1 September 2022	360°
L-DA-05 (Revision D) - Landscape Plan -	1 September 2022	360°

Ground & Level 1		
L-DA-06 (Revision D) - Landscape Section	1 September 2022	360°

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	2 September 2022	Edwina Cobon

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. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	30 September 2022

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. Prescribed conditions (Demolition):

(a) 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 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
- (ii) 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.

(b) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifier 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 Certifier for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

(c) 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.

Reason: Legislative Requirement.

4. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifier 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 Certifier 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 Certifier 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.

5. **General requirements (Demolition):**

(a) Unless authorised by Council:

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 a Notice of Commencement to Council, a copy of the Development Consent is to remain onsite at all times until completion of demolition works. 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) The applicant shall bear the cost of all works that occur on Council's property.

(f) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(g) Demolition materials and builders' wastes are to be removed to approved waste/recycling

centres.

(h) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)

(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.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

6. 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) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) 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 an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) 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.
- (e) 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.
- (f) 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.

- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) 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.
- (k) 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.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) 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 2018
 - (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

7. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$30,910.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan (as amended).

The monetary contribution is based on a development cost of \$3,091,000.00.

The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of the Northern Beaches Section 7.12 Contributions Plan (as amended).

Details demonstrating compliance, by way of written receipts issued by Council, are to be submitted to the Certifier prior to issue of any Construction Certificate or, if relevant, the Subdivision Certificate (whichever occurs first).

A copy of the Contributions Plan is available for inspection at 725 Pittwater Road, Dee Why or on Council's website at Northern Beaches Council - Development Contributions.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

8. 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 are required 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, and details demonstrating payment are to be submitted to the Certifier 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

9. Amended Landscape Plans

Amended Landscape Plans, based on Landscape Plans prepared by 360 degrees, shall be issued to the Certifier prior to the issue of a Construction Certificate to include the following details:

- i) removal of *Cupaniopsis anacardiodes* (Tuckeroo) from the landscape design plans and schedules,
- ii) a total of at least three (3) locally native tree species to achieve at least 6 metres in height at maturity, and no higher than the building, shall be planted within the property, selected from Northern Beaches Council's Native Plant Species Guide - Manly Ward, Manly DCP Schedule 4 - Part B - Native Tree Selection, or Council's Tree Guide, and to be located in the vicinity of existing removed trees,
- iii) all trees shall be planted into a prepared planting hole 1m x 1m x 600mm depth, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established, and shall be located at least 3.0 metres from buildings, and at least 1.5 metres from common boundaries, and located either within garden bed or within a prepared bed within lawn,
- iii) on structure planters shall be a minimum of 600mm depth and a width as shown on the Landscape Plans.

Certification shall be provided to the Certifier that these amendments have been documented.

Reason: Landscape amenity.

10. On Slab Landscape Works

Details shall be submitted to the Certifier prior to the issue of the Construction Certificate indicating the proposed method of waterproofing and drainage to all planters over slab, over which soil and planting is being provided. Landscape treatment details shall also be submitted to the Certifier prior to the issue of the Construction Certificate indicating the proposed soil type, planting, automatic irrigation, services connections, and maintenance activity schedule.

The following soil depth is required to support landscaping as proposed: 600mm minimum. Design certification shall be submitted to the Certifier by a qualified Structural Engineer that the planters are designed structurally to support the 'wet' weight of landscaping (soil, materials and established planting).

Reason: To ensure appropriate soil depth for planting and secure waterproofing and drainage is installed.

11. Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans

The recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

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

Reason: To ensure geotechnical risk is mitigated appropriately.

12. **Traffic Management and Control**

The Applicant is to submit an application for Traffic Management Plan to Council for approval prior to issue of the Construction Certificate. The Traffic Management Plan shall be prepared to TfNSW standards by an appropriately certified person.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process.

13. **Photographic Archival Record**

A photographic archival record of the site is to be made of all existing buildings and structures (including interiors and exteriors and their setting), generally in accordance with the guidelines issued by the NSW Heritage Division of the Department of Planning and Environment.

This record must be submitted and approved by the Council's Heritage Advisor prior to the issue of the Construction Certificate and commencement of any demolition or works on-site.

The photographic record should be made using digital technology, submitted on archival quality CD-R disc, and should include:

- Location of property, date of survey and author of survey;
- A site plan at a scale of 1:200 showing all structures and major landscape elements;
- Floor plans of any buildings at a scale of 1:100;
- Photographs of the interior, exterior, and streetscape view of the building, which document the site, cross-referenced in accordance with recognised archival recording practice to catalogue sheets. The extent of documentation will depend on the nature of the item.

Details, demonstrating compliance with this condition, are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To provide an archival photographic record of the site, including any buildings and landscape elements, prior to any works.

14. **Amendments to the approved plans**

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

Privacy Screens

Privacy screens are to be installed at the following locations:

- Along the entire length of the eastern edge of the rear balcony at Level 1.
- Along the entire length of the western edge of the rear balcony at level 1.
- Along the entire length of the western edge of the walkway adjacent to the western boundary at Level 1.

The screens are to be fixed, have a height of 1.6m above the finished floor level of each location and may consist of louvred panels and/or obscured glazing. If louvred panels are selected, the

louvres are to be spaced and positioned in a fixed manner to divert direct viewing away from neighbouring habitable room windows and private open space areas.

Screen Planting

Screen planting is to be installed along the eastern and western boundaries.

The planting along the eastern boundary is to extend from the northern extreme of the swimming pool terrace to align with the northern face of the living/dining room. Screen planting is to also be installed between the proposed side footpath and the boundary and between the northern side of the proposed stairwell to the southern edge of the terrace to the living/dining room (as indicated on level 1).

The planting along the western boundary is to extend continuously from the southern side of the waste storage area to the southern edge of the terrace to the living/dining room (as indicated on Level 1).

The plantings are to include species such as Lilly Pillies and shrubs. Bamboo is not permitted.

Replacement of Privacy Screen

The privacy screen located at the western edge of the street-facing balcony at Level 1 (notated on the plan as adjacent to a BBQ) is to be replaced with a lightweight privacy screen which will enable morning sunlight to filter down into the front courtyard of the neighbouring ground floor apartment.

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

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

15. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Certifier.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of a Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

16. **On-site Stormwater Detention Details**

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by Partridge Hydraulic Services, drawing number 2022H0046 SWDA 1.1, SWDA 1.2, SWDA 1.3, SWDA 1.4, SWDA 1.5, SWDA 1.6 and SWDA 1.7 Revision 2, dated 01.09.2022. Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) and registered in the General Area of Practice for civil engineering.

The drainage plans must address the following:

1. The overflow pipe from the OSD tank is to be located within the property boundary.
2. A secondary access grate within the OSD tank in the diagonally opposite corner to improve future maintenance.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

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

17. **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.

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

Reason: To provide public and private safety.

18. **Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

19. **Compliance with standards (Demolition):**

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 Council prior to the commencement of demolition works.

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

20. **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 Certifier prior to the issue of the Construction Certificate.

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

21. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or

easements. The appropriately stamped plans must then be submitted to the Certifier demonstrating the works are in compliance with Sydney Water requirements.

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

- “Tap in” details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

22. **Tree Removal Within the Property**

This consent approves the removal of the following tree(s) only within the property (as recommended in the Arboricultural Impact Assessment):

- i) T1 - Lillypilly, T3 - Willow Myrtle, T5 - Camellia, T11 and T14 - Lillypilly, T12 - Weeping Bottlebrush, and T13 - Lemon Scented TeaTree.
- ii) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Exempt Species (by species type or by height) as listed in the Development Control Plan do not require Council consent for management or removal, and the following exempt species are identified in the Arboricultural Impact Assessment: T2 - Liquidambar.

Reason: To enable authorised development works.

23. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifier prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Property / Properties

- 90 Lauderdale Avenue, Fairlight.
- 94 Lauderdale Avenue, Fairlight.

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifier and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifier must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

24. Protection of Existing Street Trees

All existing street trees in the vicinity of the works shall be retained during all construction stages and the street trees fronting the development site shall be protected by tree protection fencing in accordance with Section 4 of Australian Standard 4970-2009 Protection of Trees on Development Sites.

All street trees within the road verge are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree(s) is prohibited. No excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of street trees. Should any problems arise with regard to the existing or proposed trees on public land during construction, Council's Tree Services section is to be contacted immediately to resolve the matter to Council's satisfaction and at the cost of the applicant.

Reason: Street tree protection.

25. Tree and Vegetation Protection

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
- ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Principal Certifier,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
- ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on

Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,

x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,

xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment.

The Principal Certifier must ensure that:

d) The arboricultural works listed in c) are undertaken and certified by an Arborist as compliant to the recommendations of the Arboricultural Impact Assessment.

e) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained.

Reason: Tree and vegetation protection.

26. **Road Reserve**

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

Reason: Public safety.

27. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

28. **Geotechnical Requirements**

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

29. **Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifier, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

30. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

31. **Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

32. **Traffic Control During Road Works**

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with RMS Traffic Control At Work Sites Manual (<http://www.rms.nsw.gov.au/business-industry/partners-suppliers/documents/technical-manuals/tcws-version-4/tcwsv4i2.pdf>) and to the satisfaction of the Roads Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works

Reason: Public Safety.

33. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 4.5 metres wide at the kerb to 6 metres wide at the boundary in accordance with Northern Beaches Council Drawing Normal Profile and the Engineering concept drawings by Partridge Hydraulic Services, drawing number 2022H0046 CDA 1.1, CDA 1.2, CDA1.3 and CDA 1.4 Revision 1 dated 19.08.2022 and the driveway levels application approval. 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 kerb, footpath and grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Certifier.

Reason: To facilitate suitable vehicular access to private property.

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

34. **Landscape Completion**

Landscape works are to be implemented in accordance with the approved Amended Landscape Plans.

Prior to the issue of any Occupation Certificate details (from a landscape architect or landscape designer) shall be submitted to the Principal Certifier certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

35. **Condition of Retained Vegetation**

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist with minimum AQF Level 5 in arboriculture shall be submitted to the Principal Certifier, assessing the health and impact on all existing trees required to be retained within the property and within the road reserve, including the following information:

- i) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- ii) extent of damage sustained by vegetation as a result of the construction works,
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree and vegetation protection.

36. **Positive Covenant and Restriction as to User for On-site Stormwater Disposal Structures**

The Applicant shall lodge the Legal Documents Authorisation Application with Council. The application shall include the original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) and a copy of the Works-as-Executed plan (details overdrawn on a

copy of the approved drainage plan), and Civil Engineers' certification.

The Applicant shall create on the Title a positive covenant in respect to the ongoing maintenance and restriction as to user over the on-site stormwater disposal structures within this development consent. The terms of the positive covenant and restriction as to user are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's delegate prior to lodgment with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant. A copy of the certificate of title demonstrating the creation of the positive covenant and restriction as to user is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure the on-site stormwater disposal system is maintained to an appropriate operational standard.

37. **House / Building Number**

House/building number is to be affixed to the building to be readily visible from the public domain.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: Proper identification of buildings.

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

38. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting. If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

The approved landscape area shall in perpetuity remain as planting under the development consent.

Reason: To maintain local environmental amenity.

39. **Swimming Pool/Spa Motor Noise**

The swimming pool / spa motor shall not produce noise levels that exceed 5dBA above the background noise when measured from the nearest property boundary.

Reason: To ensure that the development does not impact on the acoustic privacy of surrounding residential properties.