

COUNCIL ASSESSMENT REPORT

Panel Reference	2016SYE096
DA Number	DA0047/2016
LGA	Northern Beaches Council
Proposed Development	Demolition works and construction of a Child Care Centre for one hundred and ninety four (194) children
Street Address	239 Pittwater Road, Manly
Applicant/Owner	YCW Family Trust & Wu & Ku Family Trust
Date of DA Lodgement	29 February 2016
Number of Submissions	Two hundred and ten (210)
Recommendation	Approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	Private Infrastructure and Community facilities - Capital Investment Value > \$5 million
List of all relevant s79C(1)(a) matters	SEPP Infrastructure, SEPP 55, SEPP BASIX Manly Local Environmental Plan 2013 (as amended) Manly Development Control Plan 2013 (Amendment 8)
List of all documents submitted with the report for the Panel's consideration	JRPP Assessment Report plus following attachments: <ul style="list-style-type: none"> • Draft Conditions of Consent • Plans relating to the application • Letter from NSW Transport Roads and Maritime Services
Report prepared by	David Kerr
Report date	23 November 2016

Summary of s97C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes/No**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?
e.g. Clause 7 of SEPP 55 – Remediation of Land, Clause 4.6(4) of the relevant LEP **Yes/No/Not Applicable**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes/No/Not Applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions **Yes/No/Not Applicable**

Conditions

Have draft conditions been provided to the applicant for comment? **Yes/No**

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

DA #	47/2016
Site Address	239 Pittwater Road, Manly
Proposal	Demolition works and construction of a Child Care Centre for one hundred and ninety four (194) children.
Officer	David Kerr

<u>Application Lodged:</u>	29 February 2016
<u>Applicant:</u>	YCW Family Trust & Wu & Ku Family Trust
<u>Owner:</u>	Government Property NSW
<u>Estimated Cost:</u>	\$10,960,000.00
<u>Zoning:</u>	Manly Local Environmental Plan, 2013 – R1 - General Residential
<u>Surrounding Development:</u>	Residential along the northern, southern and eastern side and adjoins Business zone- Harris Farm and Automotive repairs along the western side.
<u>Heritage:</u>	In vicinity of heritage items- 243 Pittwater Road (I214) and 252 Pittwater Road (1213) and Adjoins Pittwater Road Conservation Area
<u>NSW LEC:</u>	N/A

SUMMARY:

1. DEVELOPMENT CONSENT IS SOUGHT FOR DEMOLITION WORKS AND CONSTRUCTION OF A CHILD CARE CENTRE FOR ONE HUNDRED AND NINETY FOUR (194) CHILDREN.
2. THE APPLICATION WAS NOTIFIED TO ALL ADJOINING AND NEARBY PROPERTY OWNERS AND A TOTAL OF 210 (TWO HUNDRED AND TEN) SUBMISSIONS RECEIVED.
3. SITE INSPECTION IS RECOMMENDED.
4. THE APPLICATION IS RECOMMENDED FOR **APPROVAL**.

Subject Property and surrounding area

The subject property is commonly known as 239 Pittwater Road, Manly and legally known as Lot 1 DP 115651; Lot A DP 965656 and Lot A DP 399201.

The subject site is irregular in shape and is located on the southern side of Pittwater Road, Manly and has a combined frontage of approximately 49m to Pittwater Road and has an overall site area of 1901sqm.

The site is currently occupied by the Roads and Maritime Services (RMS) Motor Registry building with approximately 25 cars parking spaces located on site. The site is generally flat with approximately a one degree fall to the western side.

The surrounding area consists of a mix of residential and commercial development as follows:

Northern side (across the road) - Predominantly detached Residential dwellings at 250,248 and 246 Pittwater Road, Heritage listed (I213) Sydney Water pumping station at 252 Pittwater Road and Residential Flat Building at 254 Pittwater Road, Manly

Eastern side - Two storey residential flat building at 235 Pittwater Road, Manly

Southern side – Shares the rear boundary with residential dwellings at 26,24,22,20 and 18 Golf Parade fronting Golf Parade, Manly.

Western side - Adjoins Automotive Service Centre and Harris Farm Markets with associated car parking located at 243 Pittwater Road, Manly which is heritage listed item (I214)

Property Burdens and Constraints

There are no Council easements across the property. .

Description of proposed development

The submitted proposal included:

Demolition of existing structures on site followed by , construction of a Four level (4) level Child Care Centre for Two hundred and sixteen (216) with rooftop outdoor play area, parking for forty-four (44) car spaces, landscaping and operating from 7.00am to 6.00pm Monday to Friday

In response to the submissions and concerns raised by Council amended Plans were received on 29 July 2016 amending the proposal to included deletion of top floor to three levels, reduction in number of children to one hundred and ninety four (194) children and reduction of carspaces to forty-two (42) car spaces and increased setbacks.

The proposed development which is the subject of this application includes the following:

Basement Level:

Vehicular access from Pittwater Road and parking for Forty-two (42) carspaces - which includes two (2) spaces for persons with disability and twelve (12) spaces for bike parking.
Internal lift and stairs.
Plant room and loggia area

Ground Floor Level 1:

Entry and foyer area
Reception, managers room, health room and main kitchen
Two rooms for 0-15 months for 16 children
Four rooms for 15 months-2 years for 48 children
Two rooms for 2-3 years for 30 children
Toilets, sleep rooms, store rooms, wet areas and kitchens
Drying area and garbage room
Internal lift and stairs
Outdoor play area

Level 2:

Four Rooms for 2-3 years for 60 children
Two rooms for 3-5 years for 40 children
Toilets, wet area, staff room, store, kitchen, MPR room and outdoor play area
Internal lifts and stairs
Carparking spaces for 4 spaces for staff and turning bay
Outdoor play area

Level 3:

Roof top outdoor play area.

While the proposal does not include lot consolidation, a suitable condition would be included to ensure an orderly development within the local area

Applicant's Supporting Statement

The applicant provided the following documents to support the application:

- Statement of Environmental Effects - Response to submissions and proposed amendments to the Development Application prepared by Urbis dated 22 July 2016 received by Council on 29 July 2016

- Statement of Environmental Effects prepared by Urbis dated 22 July 2016 received by Council on 29 July 2016
- Acoustic Assessment Report prepared by Renzo Tonin & Associates dated 15 July 2016 received by Council on 29 July 2016
- Food Risk Management Plan prepared by Henry & Hymas- Revision 2- dated July 2016 received by Council on 29 July 2016.
- Building Code of Australia Accessibility requirements prepared by Brentnall Technical Solutions dated 26 February 2016 received by Council on 29 February 2016
- Report on Geotechnical Investigation prepared by Douglas Partners dated July 2016 received by Council on 29 July 2016
- Waste Management Plan prepared by Elephants Foot dated 18 February 2016 received by Council on 29 February 2016
- Report on Acid Sulphate Soil Assessment prepared by Douglas Partners dated December 2015 February 2016 received by Council on 29 February 2016
- Report on Remediation Action Plans prepared by Douglas Partners dated July 2016 received by Council on 29 July 2016
- Transport Impact Assessment prepared by GTA Consultants dated 14 July 2016 received by Council on 29 July 2016 and further Memorandum dated 14 July 2016 received by Council on 29 July 2016 and response dated 27 September 2016.
- Statement of Heritage Impact prepared by Clive Lucas Stapleton & Partners Pty Ltd dated 5 July 2016 received by Council on 29 July 2016

Contact with relevant parties

The officer has been in regular contact with the applicant throughout the assessment process.

Internal Referrals

Engineers Comments

Council's Engineers offered no objections to the proposal subject to inclusion of recommended conditions of consent.

Building Comments

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

Landscape Officers Comments

Council's Landscape Officer has commented on the proposal as follows:

"Include recommended standard conditions and the following ANS condition:

ANS01

Trees species planted on the Pittwater Road Frontage must attain a mature height of 10m, and must be advanced specimens at planting, minimum 4m in height at planting."

Assessing Officer's Comments:

Relevant conditions have been included in the Recommendation.

Heritage

Council's Heritage Officer has commented on the proposal as follows:

"The current amended plans are considered to address the Councils Heritage Advisors concerns with regards to scale and massing. Suitable conditions included in the recommendation.

Waste

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

Environmental Health

Council's Environmental Health Officer has commented on the proposal as follows:

"Acoustic Assessment:

- The sensitive receiver immediately adjacent the site (252 Pittwater Road, Manly) did not form part of their monitoring program. It is unclear why this property was not considered however the measurements taken either side of the property were roughly 1dB different.*
- The consultant has recommended that acoustic screens are installed on the eastern façade adjacent to the ramp between level 2 and 3 however the height of this barrier is not discussed. Details of this acoustic barrier should be sought prior to construction to ensure adequate acoustic attenuation.*
- The consultant has recommended that mechanical plant is shielded by a screen. No recommendations provided regarding acoustic attenuation for such a barrier as the type of equipment is at this stage unknown. Project specific noise goals for this particular noise source also haven't not been discussed as part of the assessment. Further advice should be sought by the applicant as to appropriate attenuation measures for mechanical plant once the specifications are determined.*
- Several acoustic attenuation measures as recommended by the consultant are operational (i.e. closing of windows/doors). The applicant should develop an operational management plan to consider these noise attenuation measures to ensure the acoustic amenity of the occupants as well as the sensitive receivers is maintained.*

Acid Sulfate Soil Management Plan:

- The management plan addresses disturbance of Potential Acid Sulfate Soils as a result of bulk excavations of the basement and lift pit. The plan outlines onsite and offsite treatment methods and relevant testing however does not provide for a contingency plan. The plan also doesn't discuss any requirements regarding covering of excavations to minimise exposure or the testing of the base and sides of excavation pits. This information should be included in the Acid Sulfate Soil Management Plan to be implemented onsite.*
- The management plan identifies that dewatering will be required as groundwater was intercepted at 2m. Any proposed dewatering should be referred to Department of Primary Industries initially for relevant approval. A dewatering management plan developed by a suitably qualified professional, outlining compliance with the Protection of the Environment Operations Act 1997 and ANZECC Water Quality Guidelines is required to be submitted to Council prior to granting approval. Methods of disposal must be identified. It is recommended that alternative methods of disposal other than to the stormwater is considered due to contaminated soil and presence of Potential Acid Sulfate Soils.*

Remediation Action Plan:

- The plan identifies that a Site Management Plan and Construction Management Plan are to be developed for implementation throughout the development phases. These plans should be developed in accordance with SEPP 55 and relevant guidelines and submitted prior to construction.*
- Considering the proposed use and the contaminants of concerns identified onsite as detailed within the report, a site audit should be conducted by an accredited auditor under the EPA scheme once remediation works are completed. Under the guidelines, Council may request an audit of the validation by a site auditor.*

Geotechnical Investigation Report:

- The Geotechnical Report references a 2-storey building. From the revised plans it shows 2 levels with mezzanine third storey play area. Ensure the report has been prepared in accordance with the revised plans.*

Plans

- Existing motor vehicle workshop identified alongside play area on ground level. The acoustic report identifies that the noise level in the outdoor play areas will comply with the AAAC Guidelines however no discussion within the application regarding potential odour/air emission impacts on children in the outdoor play areas. This should be assessed prior to approval.

Considering the above, the suitable ANS conditions should form part of the consent, should the application receive approval”

Assessing Officer’s Comments:

Relevant conditions have been included in the Recommendation.

Traffic Engineer

Council’s Traffic Engineer has commented on the proposal as follows:

“The Manly DCP requires parking at a rate of 1 space for each employee together with on site drop off/pick up points. It is stated in the Traffic Impact Assessment report that the centre will employ 40 staff requiring 40 spaces as per the DCP plus a drop off/pick up zone. It is noted that the Traffic Impact Assessment has provided an argument (based upon RMS Traffic Generating Development Guidelines and observations at a similar centre) proposing that a drop off pick up zone of some 17 spaces be provided with the balance of the parking (25 spaces) made available for longer term parking for staff. The justification for a lower staff parking component is based upon journey to work data which identifies that 69% of workers within this locality drive to work. Given the proximity of the site to public transport routes which use Pittwater Road, the staff parking provision of 25 spaces is considered appropriate. It is also considered preferable that the drop off/pick up parking provision for the centre be located off-street as busy Pittwater Road is not considered safe or appropriate for this activity. 17 spaces for drop off/pick up is considered adequate and should not result in spillover drop off/pick up activity if the spaces on-site are used as intended.

The results of the SIDRA analysis reported in the Traffic Impact Assessment indicate that the development results in some deterioration of traffic conditions however the levels of the deterioration are not excessive. Collingwood Street east is the only road in the vicinity which is adversely impacted to any significant extent. The level of service on that leg of the Pittwater Road/Collingwood Road/Ruby Lane intersection deteriorates from C to D in the AM peak with 95th percentile queue lengths increasing from 55m to 81m (approx. 5 additional cars in the queue). In the PM peak, level of service drops also from B to C with an increase of approximately 9m in 95th percentile queue lengths. It is noted however that overall performance of the intersection remains at LOS A with overall performance of the Balgowlah Road/Pittwater Road intersection remaining at LOS B. Given the above and the fact that Council is proposing to increase the length of No Stopping on the Collingwood Street approach to Pittwater Road (which will ease queuing) there is no significant concerns in regard to traffic generation from the development proposal.

It is also noted that the Traffic Impact Assessment has assumed that the driveway for the proposed development will operate on a Left In/Left Out basis. This assumption is supported however, in order to ensure that the Left in/Left Out arrangement operates effectively, a median would be required on Pittwater Road to physically prevent right turns. RMS have raised concerns about the ability to install a median on Pittwater Road given its width. The design and approval of a median on Pittwater Road (a State Road) would need to be to the satisfaction of RMS. If a median is not possible management of the Left In/Left Out arrangement would need to be by “No Right Turn” or “Left Turn Only” signage

Suitable Non Standard and standard conditions are suggested for any approval of this development.”

Assessing Officer's Comments:

Relevant conditions have been included in the Recommendation.

Flood Catchment Officer:

Council's Flood Catchment Officer has commented on the proposal as follows:

“Subject to the DA being approved, all measures recommended in Section 2.4 to 3 the Floodplain Risk Management Plan (Henry & Hymas Consulting Engineers, Revision 2, July 2016) are to be implemented.

Reason (if required): In order for the proposed development to be compatible with the flood hazard and reduce the risks and cost of flooding on the Community.”

Assessing Officer's Comments:

Relevant conditions have been included in the Recommendation.

Access Comments:

Council's Community Development Officer has commented on the proposal as follows:

“Noted addition of unisex accessible toilets on levels 1 and 2.

Lifts

- *Ensure the proposed lift complies with the AS1735.12 and Building Code of Australia.*

Car park

- *Ensure overhead clearance min 2500mm is provided from the car park entry to the accessible parking spaces.”*

Assessing Officer's Comments:

Relevant conditions have been included in the Recommendation.

Council's Children's Services comments:

Council's Children's Services Section has commented on the proposal as follows:

Car Parking

The RMS stipulates 49 car spaces, the plans allow for 42 spaces. Based on the number of children attending, there would be a minimum of 40 staff required. If the calculation of 69% workers travelling by car is assumed, there would need to be 28 staff spaces. This leaves 14 spaces for short term use. If the rate of 0.09 parking rate is assumed, this requires 17 spaces. This results in a shortfall of 3 car spaces.

Evacuation

It is not clear from the plans how the service would evacuate 194 children, with 154 of those to be evacuated with mobility challenges being under the age of 3 years.

Outdoor space

The Level 1 plans show 856m² and Level 2 plans show 426m². This totals 1282m² – which allows for 183 children under the National Regulations for outdoor space. This is not sufficient for the proposed 194 children.

<http://www.legislation.nsw.gov.au/#/view/regulation/2011/653/chap4/part4.3/div1/reg.108>

Additional comments received dated 2/11/2016:

It is noted further that upon further clarification regarding inclusion of outdoor play area at Level 3, comments were received that the proposed development complied with the legislative requirements.

Assessing Officer's Comments:

As noted in Council's Traffic Officer's comments, the proposed shortfall in car parking spaces is considered satisfactory and supported.

External Referrals

NSW Road and Maritime Service

The application was referred to NSW Roads and Maritime Services on 14 March 2016 and response received on 12 April 2016.

Amended plans and further clarification to queries were forwarded to the RMS and further comments were received on 1 November 2016.

Council received concurrence from NSW Road and Maritime Services via a letter dated 17 November 2016, which is included as an attachment.

Planning Comments

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

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

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

SEPP No. 55 – Remediation of Land

Clause 7(1)(a) of SEPP 55 requires the consent authority to consider whether land is contaminated and if the land is contaminated further consideration is required under Clauses 7(1)(b) and 7(1)(c) of the SEPP.

In response to the above requirements of SEPP 55, the applicant submitted to Council a Remediation Action Plan prepared by Douglas Partners dated July 2016 and Report on Acid Sulphate Soil Assessment prepared by Douglas Partners dated December 2015 February 2016 received by Council on 29 July 2016

The submitted documents were reviewed by Council's Environmental Health Officer and it is considered that the subject site is suitable for the proposed development.. Appropriate conditions included in the recommendations regarding requirements to notify of further contamination, remediation action plans to be prepared and implemented and certification to be provided that all site remediation works have been completed by an appropriately qualified person (EPA Registered).

Manly Local Environmental Plan 2013

The subject site is located in Zone R 1 – General Residential under Manly LEP, 2013 the proposed development is for a Child Care Centre which is permissible with consent within the zone and is defined below:

***“child care centre** means a building or place used for the supervision and care of children that:*

- (a) provides long day care, pre-school care, occasional child care or out-of-school-hours care, and*
- (b) does not provide overnight accommodation for children other than those related to the owner or operator of the centre,*

but does not include:

- (c) a building or place used for home-based child care, or
- (d) an out-of-home care service provided by an agency or organisation accredited by the Children's Guardian, or
- (e) a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised, or
- (g) a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of the person conducting the facility, to care for children while the children's parents are using the facility, or
- (h) a service that is concerned primarily with the provision of:
 - (i) lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or
 - (ii) private tutoring, or
- (i) a school, or
- (j) a service provided at exempt premises (within the meaning of Chapter 12 of the Children and Young Persons (Care and Protection) Act 1998), such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises."

Under the Manly LEP 2013, the site is:

Zone R1 General Residential

Objectives of zone

- To provide for the housing needs of the community.

The proposed development provides a child care centre that provides a service for the surrounding residential uses within the area.

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

N/A

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

The proposed development provides Child care facilities which will meet the day to day needs for residents in close vicinity and within the local government area.

Part 4 Principal development standards

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

4.	<u>Principal Development Standards</u>	<u>Requirement</u>	<u>Proposed</u>	<u>Complies Yes/No</u>	<u>Comments</u>
4.3	Height of buildings	8.5m	8.5m	Yes	<i>Proposal complies with the clause</i>
4.4	Floor Space Ratio	0.60:1 1140.6m ²	0.59:1 1106m ²	Yes	<i>Proposal complies with the clause</i>

Part 5 Miscellaneous Provisions

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

5.	<u>Miscellaneous Provisions</u>	<u>Applies</u>	<u>Complies</u>	<u>Comments</u>
5.4	Miscellaneous Permissible uses (1) Bed & Breakfast Accommodation (2) Home Businesses (3) Home Industries (6) Kiosks (7) Neighbourhood Shops (9) Secondary Dwellings	No	N/A	N/A
5.5	Development within the coastal zone	No	N/A	N/A
5.9	Preservation of trees or vegetation	Yes	Yes	Subject to inclusion of recommended conditions of consent, the proposal complies with this clause.
5.10	Heritage Conservation	Yes	Yes	Please refer comments from Council's Heritage Advisor provided earlier in the report.

Part 6 Local Provisions

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

6.	<u>Local Provisions</u>	<u>Applies</u>	<u>Complies</u>	<u>Comments</u>
6.1	Acid Sulphate Soils	Yes	Yes	Subject to inclusion of recommended conditions of consent, the proposal complies with the clause.
6.2	Earthworks	Yes	Yes	Subject to inclusion of recommended conditions of consent, the proposal complies with the clause.
6.3	Flood Planning	Yes	Yes	Suitable conditions included as recommended by Council's Flood Catchment Officer
6.4	Stormwater Management	Yes	Yes	Subject to inclusion of recommended conditions of consent, the proposal complies with the clause.
6.5	Terrestrial Biodiversity	No	N/A	N/A
6.6	Riparian land and watercourses	No	N/A	N/A
6.7	Wetlands	No	N/A	N/A
6.8	Landslide Risk	No	N/A	N/A
6.9	Foreshore Scenic Protection Area	No	N/A	N/A
6.10	Limited development on foreshore area	No	N/A	N/A
6.12	Essential services	No	N/A	N/A
6.15	Tourist and visitor accommodation	No	N/A	N/A

6.17	Health Consulting Rooms and secondary dwellings in Zones E3 and E4	No	N/A	N/A
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79C(1)(a)(ii) - any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved), and

There is no applicable Draft Planning Instrument.

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

Manly Development Control Plan 2013:

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

Part 3 General Principles of Development

<u>Issues</u>	<u>Consistent with principle</u>
Streetscape	Yes
Heritage – In Vicinity	Yes
Sunlight Assess and Overshadowing	Yes
Privacy and Security	Yes

Comment:

Streetscape

- Objective 1) To minimise any negative visual impact of walls, fences and carparking on the street frontage.*
- Objective 2) To ensure development generally viewed from the street complements the identified streetscape.*
- Objective 3) To encourage soft landscape alternatives when front fences and walls may not be appropriate*

The proposed development will provide building which is a contemporary design within the streetscape and will present a size and bulk by virtue of the stepped articulated and physical separation between building elements which is consistent with the residential context. It is noted further that subject to inclusion of recommended conditions of consent requiring an increased front setback, the proposed development has been stepped back from the front and will address and compliment the built form in vicinity thus satisfying the intent of this clause.

Sunlight access and Overshadowing:

- Objective 1) To provide equitable access to light and sunshine.*
- Objective 2) To allow adequate sunlight to penetrate:*
- *private open spaces within the development site; and*
 - *private open spaces and windows to the living spaces/ habitable rooms of both the development and the adjoining properties.*
- Objective 3) To maximise the penetration of sunlight including mid-winter sunlight to the windows, living rooms and to principal outdoor areas by:*
- *encouraging modulation of building bulk to facilitate sunlight penetration into the development site and adjacent properties; and*

- *maximising setbacks on the southern side of developments to encourage solar penetration into properties to the south.*

The applicant has submitted hourly shadow diagrams during winter solstice noting the impact on the adjoining properties. It is noted that the proposed development will cast shadows on the private open space for the properties located along the rear southern side, however these areas will continue to attain solar access to more than one third of the rear yard between 9am to 3pm. It is noted further that the living room areas and openings for properties at 235 Pittwater Road, will continue to access solar access for two hours between the hours of 9am -3pm which will satisfy the intent of this control.

Privacy and Security:

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

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

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

Objective 3) To encourage awareness of neighbourhood security.

The proposed development provides adequate setbacks to the adjoining properties which include a landscape buffer and provision of acoustic pergolas which ensure reasonable privacy and amenity of adjoining properties. It is noted further that proposed windows at the rear are highlight windows which mitigate any direct overlooking of adjoining rear yards and will thus satisfy the objectives of this clause and is thus supported on merit.

Part 4 - Development Controls

Site Area: 1901 m ²	<u>Permitted/ Required</u>	<u>Proposed</u>	<u>Complies Yes/No</u>
Wall height East side	6.5m	6.4m	Yes
West side	6.5m	8.5m	No
Number of Storeys	2	2 storeys and basement carparking	Yes
Roof height	2.5m	2.5m	Yes
Setback Front	6.0m or streetscape	1.5m	No
East setback side	2.1m	Level 1- 3.0m Level 2- 3.1m	Yes
West setback side	2.8m	Level 1- 1m to 3.0m Level 2- 3.0m	No
Setback Rear	8.0m	890mm-Basement /Carpark 8.0m- Level 1 and 2	No
Open space - total	55% (1045.55m ²)	89% (1691m ²)	Yes

Site Area: 1901 m ²	<u>Permitted/ Required</u>	<u>Proposed</u>	<u>Complies Yes/No</u>
Open space - soft landscape area	35% (591m ²)	4% (53m ²)	No
Open space - above ground	No more than 40%(676.4m ²)	685.9m ²	No
Number of Endemic Trees	4	4	Yes
Car Parking – Staff/ Visitors	1 car parking space/ employee Provision of drop off and pick up points	42 car spaces	Yes
Excavation	Generally 1m Dilapidation or Geotechnical report	Geotechnical Report provided	Yes

Comment

Wall Heights

Relevant objectives as per Clause 4.3 of the Manly LEP 2013;

- (a) to provide for building heights and roof forms that are consistent with the topographic landscape, prevailing building height and desired future streetscape character in the locality,*
- (b) to control the bulk and scale of buildings,*
- (c) to minimise disruption to the following:*
 - (i) views to nearby residential development from public spaces (including the harbour and foreshores),*
 - (ii) views from nearby residential development to public spaces (including the harbour and foreshores),*
 - (iii) views between public spaces (including the harbour and foreshores),*
- (d) to provide solar access to public and private open spaces and maintain adequate sunlight access to private open spaces and to habitable rooms of adjacent dwellings,*
- (e) to ensure the height and bulk of any proposed building or structure in a recreation or environmental protection zone has regard to existing vegetation and topography and any other aspect that might conflict with bushland and surrounding land uses.*

The proposed development exceeds the required numeric control for wall height along the western side. It is however noted that the proposed building remains within the overall building height. The subject site adjoins an automotive workshop along the western side. The proposed non-compliance of wall height along the western side will not unreasonably impact upon the amenity of the adjoining use. It is noted further that the proposed development remains consistent with a residential detached style of building form and is not likely to degrade the amenity of surrounding residences and thus meet the objectives of this control.

Number of Storeys

Clause 4.1.2.2 of Manly DCP 2013 (as amended) requires buildings not to exceed two storeys for this site unless specific physical site constraints apply. The proposed development provides two storeys with basement car parking which is considered acceptable within this clause.

Setbacks

- Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.*
- Objective 2) To ensure and enhance local amenity by:*
 - providing privacy;*
 - providing equitable access to light, sunshine and air movement; and*

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

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

Objective 4) To enhance and maintain natural features by:

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

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

The proposed development breaches the side setback control along the western side towards the front of the proposed building. This non-compliance is however considered acceptable as it is restricted to a length of 5.5m along the ground floor level (Level 1) and the rest of the building provides an adequate setback thus offering adequate separation between adjoining buildings to ensure amenity of adjacent properties, and will remain consistent with the objectives contained within Clause.

It is noted further that a suitable condition of consent is included in the recommendation to ensure that the proposed development provides an adequate front setback to accommodate planting within the front setback to enhance the existing streetscape.

Albeit the proposed development provides non-compliant setback to the rear boundary at the basement level, the proposal provides compliant rear setback to the proposed Level 1 and 2 of the development.

It is noted further that adequate landscape buffer along with acoustic arbors are provided to ensure amenity of adjoining properties thus satisfying the objectives of this clause.

Landscape Open Space:

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

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

Objective 3) To maintain and enhance the amenity (including sunlight, privacy and views) of the site, the streetscape and the surrounding area. Objective 4) To maximise water infiltration on-site with porous landscaped areas and surfaces and minimise stormwater runoff.

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

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

The proposed development provides a non-compliance with the soft landscape area requirements and open area above ground level. It is however noted that the development complies with the Total open space requirements and provides adequate outdoor play areas for the proposed use. It is noted further that the while the proposed outdoor play areas are located at Level 1 and 2 of the building, these areas are predominantly oriented to the front of the building facing Pittwater Road, thus maintain amenity of the adjoining properties. Submitted plans note that an adequate landscape buffer is provided along the rear and the side of the development to ensure acoustic and visual privacy for neighbouring properties and will thus satisfy the intent of this clause.

Car Parking

- Objective 1) To provide accessible and adequate parking on site relative to the type of development and the locality for all users (residents, visitors or employees).*
- Objective 2) To reduce the demand for on-street parking and identify where exceptions to onsite parking requirements may be considered in certain circumstances.*
- Objective 3) 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.*
- Objective 4) 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.*
- Objective 5) To ensure the width and number of footpath crossings is minimised.*
- Objective 6) 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.*
- Objective 7) 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.*

The subject application proposes a childcare centre for 194 children, which requires a minimum of 40 staff members. The proposed development provides for 42 car parking spaces and 12 spaces for bicycles, of which 17 car spaces are nominated as Pick up and Drop off spaces and 25 spaces for Staff. The applicant provided a Traffic Impact Assessment prepared by GTA Consultants which provides a justification of the shortfall in staff car parking numbers given the site is located in close proximity to public transport and identifies that approximately 69% of staff drive to work. Based on comments provided by Council's Traffic Section noted earlier in this report, this shortfall is considered satisfactory. The site is located in close proximity to public transport. Suitable conditions are included in the recommendation to ensure management of carpark, safety of pedestrians and vehicular movement on site.

Earthworks (Excavation and Filling)

- Objective 1) To retain the existing landscape character and limit change to the topography and vegetation of the Manly Local Government Area by:*
- Limiting excavation, "cut and fill" and other earthworks;*
 - Discouraging the alteration of the natural flow of ground and surface water;*
 - Ensuring that development not cause sedimentation to enter drainage lines (natural or otherwise) and waterways; and*
 - Limiting the height of retaining walls and encouraging the planting of native plant species to soften their impact*

The proposed development provides a basement car parking for 47 car spaces which will require excavation. It is however noted that Clause 4.4.5.2 allows excavation to be generally limited to 1m below natural ground level with the exception of basement parking areas (which will be contained within the footprint of the building). The proposed development provides car parking predominantly located below the existing footprint and is required to comply with the requirements of the Geotechnical Report submitted with the application, thus satisfying the intent of this clause.

4.4.6 Child Care Centres

This clause relates to Child care centres as follows:

- Objective 1) To ensure that the child care centres are a high quality and compatible with neighbouring land uses and that the site is generally suitable for child care centres in terms of its topography, adjacent land uses and pedestrian safety of the area and will not adversely affect the amenity of the existing neighbourhood by way of noise, loss of privacy and traffic*

Comments:

The subject application involves construction of a new Child care centre with partial basement car parking. The proposed development provides adequate setbacks and acoustic arbours to ensure that the amenity of neighbouring properties is maintained. Comments from NSW Roads and Maritime and Council's Traffic comments include recommendations which ensure that vehicular and pedestrian safety of the area is not adversely impacted by the development and ensures vehicular and pedestrian safety.

Indoor and outdoor areas further require that the design and layout of the play area provides a safe and pleasant environment for the children and allows visual and aural privacy for the children and neighbouring residents. It is considered that the proposed development maintains the intent of the objectives of this clause.

Part 5 - Special Character Areas and Sites

Special Character Areas and Sites	<u>Applicable</u>	<u>Comments</u>
Conservation Area	In vicinity of heritage items	Proposal complies with the clause
Flood Control Lots	Yes	Proposed works comply with the requirements subject to inclusion of recommended conditions

79C(1)(a)(iia)- any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and
There is no planning agreement under section 93F in relation to this site.

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

The application has been considered in terms of the regulations.

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

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

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

It is considered that subject to inclusion of recommended conditions of consent, the proposed development would not have any adverse environmental impacts on the natural and built environment or any adverse social or economic impacts in the locality.

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

It is considered that the site is suitable for the proposed works.

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

The application was notified to nearby and adjoining property owners in accordance with Council's Development Control Plan 2013 Section 2.2

The submitted application was notified from 9 March 2016 until 15 April 2016. An advertisement was placed in the Manly Daily on 15 March 2016.

Amended Plans were received on 29 July 2016 and the application was re-notified from 2 August 2016 until 18 August 2016

The application was re-notified on 12 September 2016 until 12 October 2016 and an advertisement was placed in the Manly Daily on 10 October 2016.

In response to the above, a total of two hundred and ten (210) submissions were received, which includes four (4) confidential submissions and one (1) in support of the development.

The main issues of concern are discussed as follows:

Issues raised in submissions	Comments on submissions
Traffic impact and impact on intersection at Pittwater Road and adjoining streets	<p>The subject application was referred to NSW Roads and Maritime who have granted concurrence for the proposed development and recommended conditions of consent are included in the recommendation.</p> <p>A Traffic Impact Assessment was submitted with the application which included a review of impact on the intersection at Pittwater Road and neighboring streets. This was reviewed by Council's Traffic Section and considered satisfactory subject to inclusion of recommended conditions of consent which are included later in the report.</p>
Parking/Inadequate on-site parking/stroller parking	<p>The proposal was reviewed by Council's Traffic Section, who consider that subject to inclusion of recommended conditions of consent, the proposed development provides adequate parking spaces and drop off pick points as noted earlier in the report.</p> <p>It is also noted that subject site is located in close proximity to public transport and provision of bike parking allows for variable transport options and access modes to and from the Centre.</p>
Safety- Pedestrian ,child and vehicular safety	<p>The application has been reviewed by NSW Roads and Maritime and Council's Traffic Section which included an assessment of pedestrian and vehicular safety along with the maneuverability of vehicles to and from the site. Suitable conditions of consent are included in the recommendation at their advice to ensure safety.</p>
Bulk and scale/character with surrounding	<p>The proposed development remains compliant with the principal development standards for the site which includes Building Height and Floor Space Ratio.</p> <p>The proposed development provides a building which is articulated and stepped and does not detract from the amenity of the area when viewed from public and private land.</p>

Overshadowing	The issues relating to overshadowing has been addressed earlier in the report.
Number of children	The subject application requests child care facilities for 194 children with associated staff numbers. To operate the Child care centre, the applicant will need to obtain a licence and comply with the related legislation, which will determine their numbers. Attached recommended conditions of consent require the operator to obtain that licence outside this development application process.
Loss of amenity/Noise	The application was accompanied by an Acoustic Compliance Report which included an assessment of predicted noise levels including outdoor play areas. This report was reviewed by Council's Environmental Health Officer and considered satisfactory subject to inclusion of recommended conditions of consent which are included later in the report.
Garbage/Deliveries	<p>The submitted plans and waste management plan has been review by Council's Waste Officer. Suitable conditions of consent are included in the recommendation to ensure compliance with Council's requirements.</p> <p>It is noted further that recommended conditions of consent include a provision that a suitable Plan of Management is provided to further address these issues.</p>
Fire Engineering and Evacuation	The application has been reviewed by Council's Building section and is considered satisfactory. Suitable conditions of consent are included in the recommendation to ensure that the proposal complies with Building Code of Australia and relevant legislation for Australian Standards.
Exhaust fumes from underground carpark and mechanical equipment	The application was referred to Council's Environmental Health Officer who has reviewed the submitted documents. Suitable conditions of consent are included in the recommendation to ensure that the development maintains compliance with relevant legislation in relation to public health and safety.

Location and suitability of the site for use/Need for the facility	The proposed use as a Child Care Centre is permitted with consent within R1 - General Residential zone. In regards to context, suitability and compatibility of the proposal with surrounding development guidance in the assessment according to the Planning principle <i>Project Venture Developments v Pittwater Council [2005]NSWLEC191</i> was undertaken. Matters relating to overshadowing, privacy, bulk and scale, setbacks and amenity impacts were assessed. It is noted that the proposed development will be in keeping with the desired future character of the area and will provide a streetscape which will be in harmony with the character of the immediate vicinity.
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79C(1) (e) - the public interest.

The wider public interest is served by providing an appropriate land use within this locality, which will augment the Child care facilities available within the local area.

S94 Contribution towards provision or improvement of amenities or services

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

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

Comments:

In this case, no additional contributions are applicable.

CONCLUSION:

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

RECOMMENDATION

That Development Application No. 47/2016 for Demolition works and construction of a Child Care Centre for one hundred and ninety four (194) children at 239 Pittwater Road, Manly be **Approved:-**

ANS01

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

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

ANS02

The child numbers for the childcare centre are to be a maximum of 194 (One hundred and ninety four) children at any time. Any further increase in child numbers will require development consent.

Reason: To ensure compliance with relevant Australian Standards and Codes.

ANS03

The approved hours of operation for the Childcare centre are from 7.00am to 6.00pm - Monday to Friday.

Reason: To ensure that hours of operation are consistent with this consent.

ANS02

The proposed outdoor area and any associated structures located at Level 1 are to be setback from the front side boundary to grid line y7 as noted on Drawing No SD/A02.02, Issue C dated 19 June 2016 and received by Council on 29 July 2016 and replaced with soft landscaping.

Plans are to be suitably amended and submitted to the Accredited Certifier/Council prior to issue of the Construction Certificate:

Reason: To allow for soft landscaping within the front setback and to improve the streetscape.

ANS03

The three (3) lots comprising the development site are to be consolidated as a single land parcel and the Plan of Consolidation is to be registered with Land and Property Information NSW within six (6) months of issue of the Final Occupation Certificate.

Reason: To ensure subdivision pattern and allotment size is consistent with the development.

ANS04

Trees species planted on the Pittwater Road frontage must attain a mature height of 10m. These trees are to be advanced specimens and at a minimum height of 4m at time of planting.

Reason: To ensure planting of appropriate street trees.

ANS05

Separate approval from Council must be sought for waters from dewatering operations to enter Council's stormwater drainage system. Such an application should include a dewatering management plan developed by a suitably qualified professional, outlining compliance with the *Protection of the Environment Operations Act 1997* and *ANZECC Water Quality Guidelines*. The management plan must include (but is not limited to) the following:

- (a) Dewatering procedures (including volume of water proposed to be discharged to ensure no erosion or scouring of the stormwater infrastructure)
- (b) Monitoring procedures
- (c) Method and frequency of sampling
- (d) Method of reporting

Testing of water samples must be analysed by a NATA accredited laboratory and must comply with the *ANZECC Water Quality Guidelines* and *Protection of the Environment Operations Act 1997*. Further approval from the *NSW Department of Primary Industries* may be required for dewatering operations. Approval must be granted prior to discharge to Council's stormwater drainage system.

Reason: To ensure compliance with legislation and to protect the surrounding natural environment

ANS06

All works associated with the development must be conducted in accordance with the Remediation Action Plan (Prepared by Douglas Partners, dated July 2016, reference: Project 85194.01 Rev1, received 29/07/16), *State Environmental Planning Policy No. 55* (the SEPP 55) and the *Managing Land Contamination Planning Guidelines*. Following the remediation works, a Stage 4 Validation and Site Monitoring Report stating the site in its current condition is suitable for the proposed use without further works, must be submitted to Council in accordance with the *Managing Land Contamination Planning Guidelines*. A Notice of Completion prepared by a suitably qualified contaminated land professional for all remediation work in accordance with the SEPP 55 must be submitted to Council upon completion of remediation works. Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council as soon as reasonably practicable. The assessment of site contamination must be in accordance with the *National Environment Protection (Assessment of Site Contamination) Measure 1999*.

Reason: To ensure contamination onsite is remediated for the proposed use in accordance with relevant legislation

ANS07

Upon completion of remediation works, a site audit conducted by an accredited auditor under the EPA Audit Scheme in accordance with the *Contaminated Land Management Act 1997* must be undertaken. The auditor must review the Validation Report in accordance with the Remediation Action Plan and prepare a Site Audit Statement and Summary Report stating for what use the land is suitable. This documentation must be submitted to Council prior to the issue of an Occupation Certificate. Should the statement and summary report identify that the site in its remediated state is not suitable for the proposed use, further remediation works are required in accordance with findings and recommendations as outlined within the report and in accordance with the *Contaminated Land Management Act 1997* and *National Environment Protection (Assessment of Site Contamination) Measure 1999* prior to the issue of an Occupation Certificate.

Reason: To ensure contamination onsite is remediated for the proposed use in accordance with relevant legislation

ANS08

An Acoustic Compliance Report, prepared by an accredited acoustic consultant, must be submitted certifying noise levels emitted from the mechanical plant situated on the premises does not exceed 5dBA above the background level in any Octave Band Centre Frequency (31.5Hz-8kHz inclusive), as measured at the boundary of the premises. Any recommendations made by the consultant must be implemented prior to issuing the Occupation Certificate in order to achieve compliance with noted conditions of this consent.

Note: This method of measurement of sound must be carried out in accordance with Australian Standard AS 1055.1-1997.

Reason: To ensure compliance with legislation and to protect public health and amenity.

ANS09

A Plan of Management for the operation of the child care centre is to be provided to Council's Environmental Health Section for approval prior to issue of an Occupation Certificate. The ongoing operation of the centre must be in accordance with the plan, taking into consideration any recommendations made by an accredited acoustic consultant. The Plan of Management must include, but is not limited to the following:

- Mitigating measures to minimise amenity impacts on surrounding residential properties
- Mitigating measures to minimise acoustic amenity impacts on occupants of the facility
- Managing noise impacts emanating from the premises
- Identifying measures to minimise potential noise impacts from outdoor play areas
- Deliveries and waste collection services

Reason: To maintain a reasonable level of acoustic amenity

ANS10

Within twenty-eight (28) days from the issue of the Occupation Certificate, a report prepared by an accredited acoustic consultant must be submitted to Council assessing compliance with Acoustic Assessment (prepared by Renzo Tonin & Associates, dated 15 July 2016, reference: TH648-02F02). Any recommendations made by the consultant must be implemented in order to achieve compliance with noted conditions of this consent.

Reason: To protect the acoustic amenity of neighbouring properties

ANS11

A total of 42 car spaces are to be provided and allocated as follows:

- (i) Staff parking - the 25 parking spaces (numbered 9-23 and 33-42 on the plans) are to be marked in paint for "Staff" parking.
- (ii) Drop off/Pick up – the 17 parking spaces adjacent to the pedestrian walkway (numbered 1 -8 and 24-32 on the plans) are to be signposted as "10 min parking Drop Off/Pick Up Only" and marked in paint as "Visitor" parking.

Reason: To cater for Parent drop off/pick up and Staff parking

ANS12

Parking space number 3 on the plans is to be marked as "Visitor - Small Car Only".

Reason: The parking space is too small in terms of width for large vehicles.

ANS13

Parking spaces numbered 1 and 2 on the plans and the adjacent unloading area are to be marked and signposted in accordance with AS/NZS 2890.6 - Off-street parking for people with disabilities.

Reason: To ensure appropriate Traffic management on site.

ANS13

A convex mirror is to be installed at the south eastern corner of the basement carpark.

Reason: To improve visibility to oncoming traffic on the access ramp.

ANS14

All measures recommended in Section 2.4 to 3 the Floodplain Risk Management Plan (Henry & Hymas Consulting Engineers, Revision 2, July 2016) are to be implemented.

Reason : In order for the proposed development to be compatible with the flood hazard and reduce the risks and cost of flooding on the Community

DA1

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

Drawings affixed with Council's 'Development Consent' stamp relating to Development Consent No. 47/2016:

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
SD/A01.01- Site Plan	Issue C dated 19/6/2016	29/7/2016
SD/A02.01- Floor Plan-Basement/ Carpark	Issue C dated 19/6/2016	29/7/2016
SD/A02.02- Floor Plan- Level 1	Issue C dated 19/6/2016	29/7/2016
SD/A02.03- Floor Plan Level 2	Issue C dated 19/6/2016	29/7/2016
SD/A02.04- Floor Plan- Level 3	Issue C dated 19/6/2016	29/7/2016
SD/A02.05- Roof Plan	Issue C dated 19/6/2016	29/7/2016
SD/A04.01- Elevations	Issue C dated 19/6/2016	29/7/2016
SD/A04.02- Elevations	Issue C dated 19/6/2016	29/7/2016
SD/A05.01- Sections	Issue C dated 19/6/2016	29/7/2016
SD/A05.02- Sections	Issue C dated 19/6/2016	29/7/2016

SD/A01.01- Site Plan	Issue C dated 19/6/2016	29/7/2016
SD/A01.01- Site Plan	Issue C dated 19/6/2016	29/7/2016
SD/A01.01- Site Plan	Issue C dated 19/6/2016	29/7/2016
SD-02-Landscape Concept Plan - Level1- (Ground Floor)	Revision B dated 15 July 2016	29/7/2016
Landscape Concept Plan-Level3-	Revision B dated 15 July 2016	29/7/2016
Landscape Concept Planting Character and Section	Revision B dated 15 July 2016	29/7/2016
Letter from NSW Transport Roads and Maritime Services – Ref No SYD15/01307/04 (A14968375)	Dated 17 November 2016	4/11/2016

Reference Documentation affixed with Council's stamp relating to Development Consent No. DA47/2016:

- Statement of Environmental Effects prepared by Urbis dated 22 July 2016 received by Council on 29 July 2016
- Acoustic Assessment Report prepared by Renzo Tonin & Associates dated 15 July 2016 received by Council on 29 July 2016
- Food Risk Management Plan prepared by Henry & Hymas- Revision 2- dated July 2016 received by Council on 29 July 2016.
- Building Code of Australia Accessibility requirements prepared by Brentnall Technical Solutions dated 26 February 2016 received by Council on 29 February 2016
- Report on Geotechnical Investigation prepared by Douglas Partners dated July 2016 received by Council on 29 July 2016
- Waste Management Plan prepared by Elephants Foot dated 18 February 2016 received by Council on 29 July 2016
- Report on Acid Sulphate Soil Assessment prepared by Douglas Partners dated December 2015 February 2016 received by Council on 29 February 2016
- Report on Remediation Action Plans prepared by Douglas Partners dated July 2016 received by Council on 29 July 2016
- Transport Impact Assessment prepared by GTA Consultants dated 14 July 2016 received by Council on 29 July 2016 and further Memorandum dated 14 July 2016 received by Council on 29 July 2016 and response dated 27 September 2016.
- Statement of Heritage Impact prepared by Clive Lucas Stapleton & Partners Pty Ltd dated 5 July 2016 received by Council on 29 July 2016

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

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

PRESCRIBED CONDITIONS

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

- (iii) stating that unauthorised entry to the work site is prohibited.

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

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

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

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

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

Reason: Legislative Requirement (DACPLB09)

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

1 (2AP03)

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

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

2 (2BS01)

Detailed plans and specifications must be provided prior to the issue of the Construction Certificate complying with the requirements of Australian Standard 4764-2004 (Design, Construction and Fit-out of a Food Premises) and Food Safety Standard 3.2.3 (Food Premises and Equipment).

Reason: To ensure compliance with legislation and to protect public health and safety.

3 (2CD01)

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

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

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

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

4 (2CD02)

A Dilapidation Report is required for this development. A photographic survey of adjoining properties detailing the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other such items, is to be submitted to Council and the Accredited Certifier (where Council does not issue the Construction Certificate) prior to the issue of the Construction Certificate. This survey is to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining property/ies.

All costs incurred in achieving compliance with this condition must be borne by the person entitled to act on this Consent.

If access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate, in writing, to Council's satisfaction attempts have been made to obtain access and/or advise the affected property owner of the reason for the survey and these attempts have been unsuccessful. Written concurrence must be obtained from Council in such circumstances.

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

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

5 (2CD03)

The applicant is to lodge a Hoarding Application with Council for any protective hoardings, fences and lighting which are to be provided during demolition, excavation and building works. The Hoarding Application is to be submitted to Council with the appropriate fee, prior to any works on site or prior to the issue of the Construction Certificate.

All hoardings must be in accordance with Council's Hoarding Application Form and must comply with the requirements of the Department of Industrial Relations, Construction Safety Act, the WorkCover Authority and relevant Australian Standards.

Note: On corner properties, particular attention is to be given to the provision of adequate sight distances.

Reason: To ensure public safety and amenity on public land.

6 (2CD04)

Where any shoring for excavation is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings and specifications certifying the shoring will be adequate for their intended purpose and must be submitted to the Council/Accredited Certifier for approval with the Construction Certificate. The documentation prepared and certified by an appropriately qualified and practicing structural engineer is to show all details, including the extent of encroachment and the method of removal and de-stressing of shoring elements. A copy of this documentation must be provided to the Council for record purposes at the time of Construction Certificate application.

Reason: To ensure the protection of existing public infrastructure and adjoining properties.

7 (2CD05)

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

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

8 (2CD06)

Four (4) certified copies of the structural engineer's details for the proposed development; including but not limited to all reinforced concrete, structural steel support construction and any proposed retaining walls; must be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To ensure construction of the new development is in accordance with the structural engineers design.

9 (2CD09)

A Geotechnical Survey is to be prepared by a suitably qualified geotechnical engineer for the proposed excavation. The requirements for a Geotechnical Survey are contained within the Dictionary of the Manly Development Control Plan 2013. All recommendations of the survey are to be complied with during the construction process. The survey is to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To ensure excavation is undertaken in an appropriate manner.

10 (2CD13)

All plumbing and drainage, including sewerage drainage stacks, ventilation stacks and water service pipes are to be concealed within the building. Plumbing other than stormwater downpipes must not be attached to the external surfaces of the building.

Reason: To ensure the visual quality of the development.

11 (2DS01)

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

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

12 (2DS02)

A Stormwater Management Plan (SWMP) in line with Council's stormwater management guidelines and signed off by a practising Chartered Professional Engineer on the National Professional Engineer's Register (NPER) at Engineers Australia is to be submitted to the Council/Accredited Certifier, prior to issue of the Construction Certificate. The SWMP is to include but is not limited to the following:

- Increase in the impervious area (m²)
- Impervious percentage (%) post development
- Demonstration of no-adverse flooding issues to the downstream and upstream properties
- Peak flow rate to street drainage system in a 1:100 Average Recurrence Interval (ARI) flood event
- Connection details and location of the outlet drainage pipe, if applicable.
- If it is an absorption trench zone (Zone 2 as per Storm Water Management guidelines), then the detail calculations along with the soil report to be submitted for review by demonstrating no-adverse drainage issues due to this development.
- Details of the Chartered Engineer including full name, signature and registration number is required.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure public infrastructure in Council's care and control is not overloaded.

13 (2DS04)

The basement car parking level is to be adequately protected from flooding. Details are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To prevent property damage and ensure adequate provision is made for the discharge of stormwater from the excavated parts of the site.

14 (2DS05)

Pump systems will only be permitted for the drainage of seepage waters from basement areas. In this case, pump systems should be inspected and serviced regularly. Hydraulic analyses carried out by suitable qualified hydraulic engineer, confirming suitability of pumps should be submitted to Council.

Reason: To ensure adequate provision is made for stormwater drainage from the site in a proper manner which protects adjoining properties.

15 (2DS07)

Detailed plans and specifications of the design of the rainwater tanks must be provided prior to the issue of the Construction Certificate complying with the requirements:-

- Australian/New Zealand Standard AS/NZS 3500:2003,
- NSW Code of Practice Plumbing and Drainage, 2006 produced by Committee on Uniformity of Plumbing and Drainage Regulations in NSW (CUPDR).
- Council's rainwater tank policy.

Reason: To protect public health and amenity.

16 (2FP02)

Detailed drawings and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage) within existing roads, must be submitted to and approved by Council under the Roads Act 1993, before the issue of any Construction Certificate. Specific works include:

- 1) Full width vehicular crossings having a maximum width, at the back of layback, and in accordance with the current policy of Council and Specifications for the construction of vehicle crossings; and

- 2) Longitudinal sections for both sides of the vehicular crossing and driveway commencing at the centre line of the road carriageway must be provided for assessment. Gradients and transitions must be in accordance with Australian Standard AS 2890.1 – 2004, Part 1 – Off-Street Car Parking. The driveway profile submitted to Council must be to scale at 1:25 (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

Driveway to be designed to provide for existing or future footpaths across driveway, in accordance with Council's Specification for Civil Infrastructure Works, Developments & Subdivisions 2003 and Australian Standard AS 1428.1:2001 - Design for access and mobility.

Reason: To facilitate suitable vehicular access to private sites.

17 (2FP03)

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

Reason: To ensure structures are contained within the site.

18 (2FP04)

The pedestrian footpaths and pavements in the streets surrounding the proposed development are to be constructed as per Manly Council Paving Design Guidelines as amended. The design details are to be submitted with the Construction Certificate application for approval by Council prior to the issue of the Construction Certificate.

Reason: To ensure appropriate quality of public infrastructure arising from the development works.

19 (2FR01)

A Fire Safety Schedule specifying the fire safety measures (both current and proposed) which should be implemented in the building premises must be submitted with the Construction Certificate application, in accordance with Part 9 Clause 168 of the Environmental Planning and Assessment Regulation 2000.

Note: A Construction Certificate cannot be issued until a Fire Safety Schedule is received.

Reason: Compliance with the Environmental Planning and Assessment Act 1979.

20 (2FR02)

The person who benefits from this consent is to engage the services of an Accredited Certifier, Building Grade 1 or 2 (NSW or equivalent) to carry out a Building Code of Australia audit that is based upon inspections of the building in terms of the deemed-to-satisfy fire safety provisions.

The audit must specifically cover all clauses within Section C, D and E of the Building Code of Australia (as per the most recent amendments) nominating 'compliance', 'non-compliance' or 'not applicable' as appropriate. The audit (checklist) is to accompany the report.

The results of the audit are to be incorporated into a report and strategy to overcome the non-compliant provisions either by performance solution or adherence to deemed-to-satisfy provisions by satisfying the fire safety objectives of Sections C, D and E of the Building Code of Australia. The standard of satisfying the fire safety objectives of Sections C, D and E as contained within the Building Code of Australia is the specified standard for the purposes of Section 121P(1)(a) of the Act.

A schedule of existing (if applicable) and the proposed Essential Fire Safety Measures, including their standard of performance must be included in this strategy. The report and strategy must be submitted to Council for written approval prior to issue of any Construction Certificate.

Reason: To ensure an adequate level of fire safety is provided within the premises for the life safety of building occupants.

21 (2HT07)

A schedule of external colours is to be submitted to Council's satisfaction prior to the issue of Construction Certificate. The external colour schemes of new buildings are to be in keeping with the original character of the heritage buildings on the site. On the heritage buildings the external colour scheme for surfaces intended for painting is to be based, where possible, on physical and documentary evidence in keeping with the architectural style and period of the buildings.

Reason: To ensure the proposed colour scheme is appropriate to the type and style of the building and the surrounding area

22 (2LD01)

Details must be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate indicating the proposed method of water proofing and drainage of the concrete slabs over which landscaping is being provided.

Reason: To ensure the appropriate type of water proofing is carried out and descriptive information about drainage is provided.

23 (2MS01)

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

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

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

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

24 (2NL01)

Details are to be submitted to the Council/Accredited Certifier indicating the method of sound attenuation and/or acoustic treatments for all roof terraces, decks and balconies in compliance with the Building Code of Australia, prior to issue of the Construction Certificate.

Reason: To protect the acoustic amenity of neighbouring properties and the public.

25 (2NL03)

Details of the proposed mechanical exhaust systems, detailing compliance with the relevant requirements of Clause F4.12 of the Building Code of Australia and Australian Standard 1668 Parts 1 and 2 are to be submitted to Council or the Principal Certifying Authority for approval prior to the issue of a Construction Certificate.

Reason: To ensure compliance with legislation and to protect public health and safety.

26 (2NL04)

Prior to the issue of the Construction Certificate, a Noise and Vibration Management Plan is to be prepared by a suitably qualified person addressing the likely noise and vibration from demolition, excavation and construction of the proposed development and provided to Council or the Principal Certifying Authority.

The Plan is to identify amelioration measures to ensure the noise and vibration levels will be compliance with the relevant legislation and Australian Standards. The report that itemises equipment to be used for excavation works. The Plan shall address, but not limited to, the following matters:

- Identification of activities carried out and associated noise sources
- Identification of potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment
- Determination of appropriate noise and vibration objectives for each identified sensitive receiver
- Noise and vibration monitoring, reporting and response procedures
- Assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles
- Description of specific mitigation treatments, management methods and procedures to be implemented to control noise and vibration during construction
- Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency
- Procedures for notifying residents of construction activities likely to affect their amenity through noise and vibration
- Contingency plans to be implemented in the event of non-compliances and/or noise complaints. A register should be kept of complaints received, and the action taken to remediate the issue.

Reason: To protect acoustic amenity of surrounding properties and the public.

27 (2NL05)

Mechanical plant situated on the roof area of the premises must be acoustically treated to ensure noise emissions are not audible at the nearest residential premises. Details are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Council may require the owner or occupier of the premises to engage the services of a suitably qualified professional to undertake an acoustic assessment of the premises in the event concerns regarding the emission of 'offensive noise' are raised and/or justified by Council.

Reason: To protect the acoustic amenity of neighbouring properties.

28 (2PT01)

The driveway/access ramp grades, access and car parking facilities must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicles.

29 (2PT02)

All driveways, car parking areas and pedestrian paths are to be suitably surfaced. Details of the treatment to these areas are to be submitted to the Council/Accredited Certifier prior to issue of the Construction Certificate.

Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff.

30 (2PT03)

The dimensions of car parking bays and aisle widths in the car park are to comply with Australian/New Zealand Standard for Off-Street Parking AS/NZS 2890.1-2004.

Reason: To ensure compliance with this consent and Australian Standards relating to manoeuvring, access and parking of vehicles.

31 (2WM03)

Garbage rooms or grease arrester rooms must be constructed of solid material: cement rendered and steel trowelled to a smooth even surface. The door to the garbage room is to be designed and constructed to ensure the room is vermin proof and can be opened from the inside at all times. The garbage room is to be ventilated to the external air by natural ventilation or an approved air handling exhaust system.

Reason: To keep garbage rooms in a clean and sanitary condition to protect public health.

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

32 (3CD02)

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

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

33 (3CD03)

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

Reason: To protect the public interest and safety.

34 (3CD04)

The hoarding be in place prior to the commencement of works on the site. Trees which are affected by the hoarding and located outside the boundaries of the allotment are not to be cut, trimmed or removed without the prior approval of Council. The hoarding be removed immediately at the applicant's expense, if any of these conditions relating to hoardings are not fully complied with.

Reason: To ensure public safety and amenity on public land.

35 (3FP01)

The applicant must complete an application form and pay applicable fees for an application to Council for the construction of a Vehicular Crossing, for the design, specification and inspection by Council. Applications are to be made a minimum of two (2) working days prior to commencement of proposed works on Council's property.

Reason: To provide suitable vehicular access to private sites, without disruption to pedestrian and vehicular traffic.

36 (3PT01)

In accordance with the Roads Act 1993, written consent from Council must be obtained and must be in hand prior to any track equipped plant being taken in or onto any roadway, kerb & gutter, footway, nature strip, or other property under Council's control.

Reason: To ensure appropriate protection of public infrastructure and facilitate access for public and vehicular traffic.

37 (3PT03)

Applications for a construction zone on a State Road require 28 days notice to Council and RTA State Network Services indicating the location and length. All construction zones require the approval of the Manly Traffic Committee.

Reason: To ensure Council, the Traffic Committee and the RTA have sufficient time and information to assess the traffic and access implications of a proposed construction zone and to develop appropriate responses to those implications.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

38 (4AP02)

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

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

39 (4BS01)

The construction and fit-out of the food premises must comply with the following:-

- Food Act 2003,
- Food Regulations 2004,
- Australian Standard AS 4674-2004: Construction and fit out of food premises,
- Australia and New Zealand Food Standards Code 3.2.3: Food Premises and Equipment.

Reason: To ensure compliance with legislation and to protect public health and safety.

40 (4CD01)

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

- 1) All demolition is to be carried out in accordance with Australian Standard AS 2601-2001.
- 2) Demolition must be carried out by a registered demolition contractor.
- 3) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out.
- 4) No blasting is to be carried out at any time during construction of the building.
- 5) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- 6) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- 7) Any demolition and excess construction materials are to be recycled wherever practicable.
- 8) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- 9) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- 10) All waste must be contained entirely within the site.
- 11) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- 12) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- 13) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept on site as evidence of approved methods of disposal or recycling.
- 14) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
- 15) Public footways and roadways adjacent to the site must be maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
- 16) Building operations such as brick-cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.

17) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.

18) Any work must not prohibit or divert any natural overland flow of water.

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

41 (4CD02)

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

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

Reason: To prevent disturbance to the surrounding community.

42 (4CD03)

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

Reason: To maintain sanitary conditions on building sites.

43 (4CD04)

All hoardings must be lit between the hours of sunset and sunrise. Lights are to be erected at intervals of not greater than 5.0 metres for the length of the hoarding. The applicant must keep the hoarding presentable to the public for the whole of the time it is erected. There must be no catch points or protrusions likely to cause injury or damage to the public from the hoarding. The hoarding must be constructed of demountable timber frame sections lined with a smooth face material, and painted with an approved white paint which will not wash or rub off.

Reason: To ensure public safety and amenity on public land.

44 (4CD05)

Retaining walls being constructed in conjunction with excavations must be in accordance with structural engineer's details. Certification by a suitably qualified structural engineer that the constructed works comply with the structural detail must be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: To ensure the structural adequacy of the retaining walls.

45 (4CD06)

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

Reason: To ensure compliance with the consent.

46 (4CD07)

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

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

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

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

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

47 (4CD10)

Noise arising from the works must be controlled in accordance with the requirements of the Protection of the Environment Operations Act 1997 and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.

Reason: To ensure compliance with legislation and to prevent disturbance to the surrounding community.

48 (4CD11)

The activity of rock-breaking associated with the development of the site, must only occur between the hours of:

- 9.00 AM – 5.00 PM on weekdays (Monday – Friday) only.

Rock-breaking activities must not occur on weekends or public holidays.

Adjoining properties must be notified in writing of the times and days in which rock-breaking activities will be carried out. Notices must be distributed at least seven (7) days before the activity is to occur.

Reason: To protect the acoustic amenity of neighbouring properties and the public.

49 (4DS01)

A suitable sub-surface drainage system is to be provided adjacent to all excavated areas and such drains being connected to an approved disposal system. The details of this drainage system should be shown in a plan and submitted to Council/Accredited Certifier prior to issue of the Construction Certificate.

Reason: To prevent uncontrolled seepage entering excavated areas.

50 (4DS02)

Any de-watering from the excavation or construction site must comply with the Protection of the Environment Operations Act 1997 and the following:

- 1) Ground water or other water to be pumped from the site into Council's stormwater system must be sampled and analysed by a NATA accredited laboratory or Manly Council for compliance with ANZECC Water Quality Guidelines, and
- 2) If tested by NATA accredited laboratory, the certificate of analysis issued by the laboratory must be forwarded to Manly Council as the appropriate regulatory authority under the Protection of the Environment Operations Act 1997, prior to the commencement of de-watering activities; and
- 3) Council will grant approval to commence site de-watering to the stormwater based on the water quality results received, and
- 4) It is the responsibility of the applicant to ensure during de-watering activities, the capacity of the stormwater system is not exceeded, there are no issues associated with erosion or scouring due to the volume of water pumped; and turbidity readings must not at any time exceed the ANZECC recommended 50ppm (parts per million) for receiving waters.

Reason: To ensure compliance with legislation and to protect the surrounding natural environment.

51 (4DS03)

Rainwater tanks must be installed on residential properties by a suitably qualified and licensed plumber and in accordance with the following:

- Australian/New Zealand Standard AS/NZS 3500:2003,
- NSW Code of Practice Plumbing and Drainage, 2006 produced by Committee on Uniformity of Plumbing and Drainage Regulations in NSW (CUPDR).
- Council's rainwater tank policy

Reason: To protect public health and amenity.

52 (4FP01)

The existing footpath level and grade at the street alignment of the property must be maintained.

Reason: To ensure appropriate access and infrastructure protection.

53 (4FR01)

The building is to be erected in Type {insert type} construction for a Class {insert class} building in accordance with the Fire Resistance Provisions of the Building Code of Australia.

Reason: To specify the standard of construction and the level of fire safety required by the Building Code of Australia.

54 (4HT04)

Should any potentially historic relics be discovered on the site during excavation, all excavation or disturbance to the area is to stop immediately and the Heritage Division of the NSW Department of Environment and Heritage should be informed in accordance with Section 146 of the Heritage Act 1977. "Relics" are any deposit, artefact, object or material evidence that relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and are of State or local heritage significance.

Should any potentially significant Aboriginal material be discovered on the site, all excavation or disturbance of the area is to stop immediately and the Heritage Division of the NSW Department of Environment and Heritage is to be informed in accordance with Section 91 of the National Parks and Wildlife Act 1974.

Reason: To ensure the proper management and preservation of potentially significant archaeological material.

55 (4LD04)

The following precautions must be taken when working near trees to be retained:

- harmful or bulk materials or spoil must not be stored under or near trees,
- prevent damage to bark and root system,
- mechanical methods must not be used to excavate within root zones,
- topsoil from under the drip line must not be added and or removed,
- ground under the drip line must not be compacted, and
- trees must be watered in dry conditions.

Reason: This is to ensure no damage is caused to trees from various methods of possible damage.

56 (4LD06)

All disturbed surfaces on the land resulting from the building works authorised by this approval must be revegetated and stabilised to prevent erosion either on or adjacent to the land.

Reason: To prevent/contain erosion.

57 (4LD07)

Where development/construction necessitates the pruning of more than 10% of existing tree canopy, a permit application must be lodged with the Council's Civic Services Division, subject to the Tree Preservation Order 2001.

Reason: To ensure those trees are maintained appropriately and compliance with Australian Standard AS 4373:2007 – Pruning of Amenity Trees.

58 (4LD08)

Retain and protect trees and planting on council's Road Reserve during construction.

Reason: To maintain the number of street trees and preserve the amenity of the local area.

67 (4MS02)

In order to ensure compliance with approved drawings, a Survey Certificate, to Australian Height Datum, must be prepared by a registered surveyor as follows:

- a) at the completion of the first structural floor level indicating the level of that floor and the relationship of the building to the boundaries, and
- b) at the completed height of the building, prior to the placement of concrete in form work, or the laying of roofing materials, and

- c) at completion, the relationship of the building, and any projections thereto, to the boundaries.

Progress certifications in response to points (a) through (c) must be provided to the Principal Certifying Authority at the time of carrying out relevant progress inspections. Under no circumstances will work be allowed to proceed should such survey information be unavailable or reveal discrepancies between the approved drawings and the proposed works.

Reason: To ensure compliance with the development consent.

59 (4MS04)

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

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

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

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

60 (4MS05)

All excavation, construction and associated works must be conducted in accordance with the approved Acid Sulfate Soil Management Plan: {insert management plan as referenced in condition code 1AP.1}.

Reason: To ensure management of potential acid sulfate soils.

61 (4MS07)

The storage and handling of flammable and combustible liquids must be in accordance with Australian Standard AS1940-2004 - The storage and handling of flammable and combustible liquids.

Reason: To protect public safety.

62 (4NL01)

Noise arising from demolition and construction works must be controlled in accordance with the requirements of the Protection of the Environment Operations Act 1997 and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.

Reason: To prevent disturbance to the surrounding community during construction.

63 (4PT01)

All requirements of the Local or Regional Traffic Advisory Committees are to be complied with.

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 in a manner which respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community.

64 (4WM01)

The only waste derived material which may be received at the development site is:

- 1) Virgin excavated material (within the meaning of the Protection of the Environment Operations Act 1997), and
- 2) Any other waste-derived material the subject of a resource recovery exemption under cl.51A of the Protection of the Environment Operations (Waste) Regulation 2005 that is permitted to be used as fill material.

Any (b)-type material received at the development site must be accompanied by documentation certifying the materials compliance with the exemption conditions; and this documentation must be provided to the Principal Certifying Authority on request.

Reason: To ensure imported fill is of an acceptable standard for environmental protection purposes.

65 (4WM02)

Removal of trackable wastes from the site must comply with the Protection of the Environment Operations (Waste) Regulation 2005 for the transportation, treatment and disposal of waste materials. Waste materials must not be disposed on land without permission of the land owner and compliance with the provisions of the Protection of the Environment and Operations Act 1997.

Reason: To ensure compliance with legislation.

66 (4WM03)

Hazardous waste must be contained, managed and disposed of in a responsible manner in accordance with the Protection of Environment and Operations Act 1997.

Reason: Compliance with the provisions of the Protection of the Environment and Operations Act 1997.

67 (4WM04)

Garbage rooms or grease arrester rooms must be constructed of solid material: cement rendered and steel trowelled to a smooth even surface. The door to the garbage room is to be designed and constructed to ensure the room is vermin proof and can be opened from the inside at all times. The garbage room is to be ventilated to the external air by natural ventilation or an approved air handling exhaust system.

Reason: To keep garbage rooms in a clean and sanitary condition to protect public health.

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

68 (5BS02)

Prior to the issue of the Occupation Certificate, the proprietor of the food business must notify their business operations to council. If the food business is licensed business (such as a butcher shop, dairy producer, or seafood processor) a license application with the NSW Food Authority must be lodged.

Reason: To ensure compliance with legislation and the Australia and New Zealand Food Standards Code.

69 (5CD01)

On completion of the works and prior to the issue of a final Occupation Certificate, a certificate is to be prepared stating that no damage has resulted to adjoining premises, and is to be provided to Council and the Principal Certifying Authority.

Alternatively, if damage is identified which is considered to require rectification, the damage is to be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible and prior to the issue of a final Occupation Certificate.

Reason: To ensure adjoining owners' property rights are protected.

70 (5DS01)

Stormwater drainage from the proposed addition/extension must be disposed of to the existing drainage system. All work is to be carried out in accordance with Council standards and specifications for stormwater drainage. Work is to be completed prior to the issue of the Occupation Certificate.

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

71 (5FP01)

All surplus vehicular crossings and/or kerb laybacks must be removed and the kerb and nature strip reinstated prior to issue of the Occupation Certificate.

Reason: To provide on-street parking, suitable vehicular access to private sites, and infrastructure protection.

72 (5LD02)

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

Reason: To ensure landscaping will be appropriately maintained.

73 (5MS01)

At the completion of the installation of the mechanical exhaust ventilation system, a certificate from a practising mechanical engineer shall be submitted to Council or the Principal Certifying Authority prior to the issue of the Occupation Certificate indicating compliance with Australian Standard AS 1668.

Reason: To ensure the mechanical exhaust ventilation system complies with Australian Standard AS1668.

74 (5NL02)

Prior to the issue of a Construction Certificate, the Certifying Authority must be satisfied that all outdoor lighting is designed and positioned to minimise any detrimental impact upon the amenity of other premises and adjacent dwellings and that the outdoor lighting complies with the relevant provisions of Australian Standard 1558.3:2005 Pedestrian area (Category P) lighting – Performance and design requirements and Australian Standard 4282:1997 Control of the obtrusive effects of outdoor lighting.

Reason: To protect public health and amenity.

75 (5TC01)

Prior to issue of the Occupation Certificate, a durable termite protection notice must be permanently fixed to the building in a prominent location detailing the form of termite protection which has been used in accordance with the Manly Code for the protection of Buildings against Termite Attack.

Reason: To inform owners and future owners of the type of termite protection installed and of the need for regular inspections.

76 (5US01)

Any adjustment to a public utility service is to be carried out in compliance with its standards; where consent is required, with its concurrence; and with the full cost being borne by the applicant. Full documents of adjustments to any public utility service should be submitted to Council.

Reason: To ensure compliance with the terms of this consent.

77 (5WM01)

The applicant must contact Sydney Water (Tel.- 131110) to determine whether a Trade Waste Permit is required before discharging any trade waste to the sewerage system.

Reason: To comply with legislation.

78 (5WM02)

Prior to issue of an Occupation Certificate, the owner must provide evidence of a contract with a licensed contractor for the removal of all trade waste.

Reason: Responsible disposal management of trade waste.

79 (5WM03)

The premises must have adequate holding facilities for waste oil to meet Australian Standards for bunding and provide evidence of a current contract for the waste oil's recycling to the Principal Certifying Authority prior to the issuing of the Occupation Certificate.

Reason: To ensure responsible disposal of waste oil.

ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OR DEVELOPMENT

80 (6AQ01)

The use of the premises must not give rise to air impurities in contravention of the Protection of the Environment Operations Act 1997 and must be controlled in accordance with the requirements of this Act.

Reason: To ensure compliance with legislation and to protect public health and amenity.

81 (6BS02)

The ongoing operation and fit out of the premises must be maintained in accordance with the following requirements:

- Food Act 2003
- Food Regulations 2004
- Australian Standard AS4674-2004: Construction and fit out of food premises
- Australia and New Zealand Food Standards Code 3.2.3: Food Premises and Equipment
- Australia and New Zealand Food Standards Code 3.2.2: Food Safety Practices and General Requirements

Reason: To ensure compliance with legislation and to protect public health and safety.

82 (6BS08)

Saturated and Trans Fats - General

To minimise the risk of cardiovascular disease to the community, the ongoing operation of the premises shall be in accordance with Council's Saturated and Trans Fats Reduction Policy.

Reason: To comply with Council Policy in minimising saturated and trans fats in the retail food industry in the interest of public health and safety.

83 (6DS01)

The ongoing use and operation of the rainwater tank(s) must be maintained in accordance with:

- Sydney Water Guidelines for Rainwater Tanks on Residential Properties, 2003.
- Australian Government EnHealth Council publication Guidance on the use of Rainwater Tanks, 2004.

Reason: To protect public health and amenity.

84 (6FP01)

No sandwich boards, goods or the like are to be placed on Council's footpath.

Reason: To ensure pedestrian safety.

85 (6LP03)

Landscaping is to be maintained in accordance with the approved Landscaping Drawing.

Reason: This is to ensure that landscaping is maintained appropriately.

86 (6MS02)

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

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

87 (6MS03)

In the event of a pollution incident, the details of the incident must be recorded in a register including the remedial action taken. The appropriate authority must be notified of a pollution incident as soon as reasonably possible after the incident has occurred.

The Protection of the Environment Operations Act 1996 defines a pollution incident as an 'incident or set of circumstances during or as a consequence of which there is or is likely to be a leak, spill or other escape or deposit of a substance, as a result of which pollution has occurred, is occurring or is likely to occur. It includes an incident or set of circumstances in which a substance has been placed or disposed of on premises, but it does not include an incident or set of circumstances involving only the emission of any noise'

Reason: To ensure compliance with legislation and to protect public health and amenity.

88 (6NL01)

Glare from internal lighting is not permitted to extend beyond the limits of the building authorised by this approval.

Reason: To ensure there is no glare from internal lighting to neighbouring properties and land.

89 (6NL02)

All lights used to illuminate the exterior of the buildings or site must be positioned and/or fitted with cut off luminaires (baffles) so as to prevent the emission of direct light onto adjoining roadways, adjoining land, dwellings and waterways.

Reason: To protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting in public places.

90 (6NL03)

The ongoing use of the premises/property must not give rise to 'offensive noise' as defined under the provisions of the Protection of the Environment Operations Act 1997.

Reason: To ensure compliance with legislation and to protect public health and amenity.

91 (6NL04)

External sound amplification equipment or loud speakers must not be used for the announcement, broadcast, playing of music (including live music) or similar purposes.

Reason: To protect the acoustic amenity of neighbouring properties and the public.

92 (6NL05)

The use of amplified sound equipment and public address systems is not permitted, unless located entirely within the shop and used in such a manner that the noise cannot be heard in any public place.

Reason: To ensure compliance with legislation and to protect public health and amenity.

93 (6NL07)

Noise associated with any entertainment within the premises including but not limited to live music, amplified music, background acoustic music, recording, comedy, dance, artistic expression or otherwise must not be audible within any residential habitable room at any time.

Reason: To minimise noise disturbance to neighbouring residential properties.

94 (6NL08)

All outdoor lighting must not detrimentally impact upon the amenity of other premises and adjacent dwellings and must comply with where relevant, Australia Standard AS 1158.3:2005 Lighting for roads and public spaces – Pedestrian Area (Category P) lighting – Performance and design requirements and Australian Standard AS 4282:1997 Control of the obtrusive effects of outdoor lighting.

Reason: To protect the amenity of adjoining properties.

95 (6NL10)

The construction and ongoing use of the premises, building services, equipment, machinery and ancillary fittings shall not give rise to air pollution. All works shall ensure air quality controls are in place and all activity is in accordance with the Protection of the Environment Operations Act 1997 and Protection of the Environment Operations (Clean Air) Regulation 2002.

Reason: To ensure compliance with legislation and to protect public health and amenity.

96 (6PT01)

The visitor parking is to be accessible at all times, and a sign post erected at the vehicular entry point(s) of the development indicating the location of the visitor parking.

Reason: To ensure visitors are not forced to park on public streets when visitor parking has been provided and is available within the development.

97 (6PT02)

Adequate vehicle parking as required by the Manly Development Control Plan 2013 is to be available at all times for motor vehicles associated with the use of the land.

Reason: To ensure users of the land are not forced to park on public streets.

98 (6PT03)

Loading and unloading of vehicles and delivery of goods to the land must be carried out within the site. The car parking area shown on the approved drawings must be used for vehicle parking only. Any loading or unloading of materials of potential environmental damage must be appropriately bunded with adequate spill response equipment in place to ensure nil runoff from the site.

Reason: To ensure the safety and amenity of the general public using public streets, and to ensure the protection of the environment from spillage of materials.

99 (6WM01)

Activities must not detrimentally affect impact existing and future amenity of the adjoining occupations and the neighbourhood in general by the emission of noise, smoke, dust, fumes, grit, vibration, smell, vapour, steam, soot, ash, waste water, waste products, oil, electrical interference or otherwise.

Reason: To protect existing and future amenity of the adjoining occupations from excessive waste emissions.

100 (6WM02)

Deliveries and waste collection must only occur during the following hours:

- Weekdays – 7:00am – 8:00pm
- Weekends and Public Holidays – 8:00am – 8:00pm

Reason: To minimise disruption to neighbouring properties.

101 (6WM03)

Waste bins used for commercial premises are to be left on public footpaths for the minimum time necessary for waste collection and then promptly removed. Lids should be closed to prevent littering.

Reason: To ensure waste and bins are promptly removed from public places following collection; to limit obstruction of footpaths or roads; and to minimise public amenity impacts.

102 (6WM04)

All non-recyclable waste from commercial premises must be presented for collection in a lidded receptacle. Waste receptacles are not to be stored in public spaces such as footpaths.

Reason: Public amenity and litter minimisation.

103 (6WM05)

No waste generated on site from any commercial operation is to be placed in public place bins. Commercial operators must maintain their commercial waste bins in an organised, clean and sanitary condition, preventing potential for litter from overflowing bins.

Reason: To communicate policy regarding illegal trade waste dumping in public bins; and maintenance of trade waste bins.

104 (6WM10)

The operation of the premises must be conducted in a manner that does not pollute waters as defined by the Protection of the Environment Operations Act, 1997.

Reason: To ensure compliance with legislation and to protect public health and amenity.