

## COUNCIL ASSESSMENT REPORT

Panel Reference	2016SYE098
DA Number	112/2016
LGA	Northern Beaches Council
Proposed Development	Demolition works, alterations and additions to the existing Electricity Substation for use as a Child Care Centre to accommodate one hundred and forty-seven (147) children
Street Address	81-83 Griffiths Street and 46 Boyle Street, Balgowlah
Applicant/Owner	Giraffe Childcare Group Pty Ltd
Date of DA Lodgement	6 May 2016
Number of Submissions	Seventy-One (71)
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	Heritage Act 1977, 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	Assessment Report plus following attachments: <ul style="list-style-type: none"> <li>• Draft Conditions of Consent</li> <li>• Plans relating to the application</li> <li>• Letter from NSW Heritage Council including General Terms of Approval</li> </ul>
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

<b>DA No.</b>	112/2016
<b>Site Address</b>	81-83 Griffiths Street and 46 Boyle Street, Balgowlah
<b>Proposal</b>	Demolition works, alterations and additions to the existing Electricity Substation for use as a Child Care Centre to accommodate one hundred and forty-seven (147) children.
<b>Officer</b>	David Kerr

<b><u>Application Lodged:</u></b>	6 May 2016
<b><u>Applicant:</u></b>	Giraffe Childcare Group Pty Ltd
<b><u>Owner:</u></b>	Giraffe Child Care Group Pty Ltd
<b><u>Estimated Cost:</u></b>	\$6,638,774.00
<b><u>Zoning:</u></b>	Manly Local Environmental Plan, 2013 – R1-General Residential
<b><u>Surrounding Development:</u></b>	Predominantly residential dwellings and located opposite Manly West Primary School
<b><u>Heritage:</u></b>	NSW State heritage listed - Item of Heritage significance- I14-Former Electricity substation

## **SUMMARY:**

1. DEVELOPMENT CONSENT IS SOUGHT FOR DEMOLITION WORKS, ALTERATIONS AND ADDITIONS TO THE EXISTING ELECTRICITY SUB-STATION FOR USE AS A CHILD CARE CENTRE TO ACCOMMODATE ONE HUNDRED AND FORTY-SEVEN (147) CHILDREN
2. THE APPLICATION WAS NOTIFIED TO ALL ADJOINING AND NEARBY PROPERTY OWNERS AND A TOTAL OF 71 (SEVENTY-ONE) SUBMISSIONS WERE RECEIVED.
3. THE APPLICATION IS RECOMMENDED FOR **APPROVAL**.

## **Subject Property and surrounding area**

The subject property is commonly known as 81-83 Griffiths Street and 46 Boyle Street, Balgowlah and legally known as Lots 1,2,3 & 72 DP 9860

The subject site is fairly regular in shape and is located on the corner of Griffiths Street and Boyle Street, Balgowlah. The northern frontage to Griffiths Street is 40.24m and western frontage to Boyle Street being 54.71m and eastern and southern boundaries of 54.47m and 39.825m respectively providing a total site area of 2188.4sqm.

The sites currently contain single storey dwellings at No 81 Griffiths and 46 Boyle Street and a former electric substation (I14) at 83 Griffiths Street, which is listed as an Item of heritage significance on the NSW State Heritage Register (Item 00936) and Schedule 5, Manly Local Environment Plan (2013) as amended.

The surrounding area consists of predominantly detached residential dwellings including at 79 Griffiths Street, Balgowlah and 27 and 29 Waratah Street, Balgowlah along the eastern side and 44 Boyle Street, Balgowlah along the western side. Manly West Primary School is located opposite to the subject site.

## **Property Burdens and Constraints**

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

### **Description of proposed development**

The proposal includes Demolition of the existing dwelling at 81 Griffiths Street and 46 Boyle Street, alterations and additions to the existing Electricity Sub-station for the use as a Child Care Centre to accommodate one hundred and forty-seven (147) children, twenty-seven (27) car parking spaces, operation hours from 7.00am to 6.00pm Monday to Friday, landscaping and the removal of five (5) trees and lot consolidation.

The proposed development includes the following:

#### **Basement Level**

Vehicular access from Griffiths Street with parking for 23 car spaces - which includes 8 drop off and pick up spaces, 14 staff spaces, 1 space for persons with disability, 1 share space and 8 spaces for bike parking.

Internal lift and stairs.

Laundry, plant, store and garbage room

#### **Ground Floor Level**

Pedestrian entry from Griffiths Street level including ramps

Reception, kitchen, meeting room, directors room and staff rooms

0-2 year old rooms for 32 children

Toddler rooms for 55 children

Toilets, Sleep rooms and Store rooms

Internal lift and stairs

Outdoor play area

#### **First Floor Level**

4-5 year old rooms for 60 children

Toilets, staff room, store and outdoor play area

Internal lifts and stairs

4 car parking spaces staff and turning bay

Outdoor play area

#### **Roof Top**

Open service deck at centre of 19.8sqm

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

#### **Amended Plans received on 21/11/2016 - Revision 9:**

In response to the concerns raised at the JRPP Briefing meeting the applicant has amended the plans to include the following:

The proposed acoustic pergolas have been setback from the eastern boundary by an additional 1m to follow Gridline1 and widens the setback to 1.45m along the south eastern corner to Gridline J.

Increased setback to 2.0m for the proposed acoustic pergolas from the southern boundary to follow Gridline J.

Introduction of landscaping within the eastern and southern setback to provide a landscape buffer.

### **Applicant's Supporting Statement**

- The applicant has provided a Statement of Environmental Effects prepared by Planning Ingenuity dated April 2016 received by Council on 6/5/2016 in support of the application.
- Amended Statement of Modifications prepared by Office of Andrew Daly Architect dated 19/8/2016 and received by Council on 26/8/2016.

- Amended Plan of Management – Balgowlah Centre Information dated November 2016 and received by Council on 18/11/2016.
- Transport Impact Assessment prepared by GTA Consultants dated 4/5/2016 and received by Council on 18/11/2016 and additional report prepared by GTA Consultants dated 19/8/2016 and received by Council on 26/8/2016.
- Heritage Impact Statement prepared by City Plan Service dated May 2016 and received by Council on 18/11/2016.
- Balgowlah Zone Substation Conservation Management Plan- Final dated July 2011 prepared by Futurepast Heritage Consulting and received by Council on 6/5/2016.
- Detailed Site Investigation Report dated December 2015 prepared by DLA Environmental Services dated and received by Council on 6 May 2016.
- Site Audit Report dated September 2014 prepared by Environ received by Council on 6 May 2016.
- Balgowlah Zone Substation Remediation Validation Report prepared by Jacobs Group Pty Ltd dated 16 September 2014 and received by Council on 6 May 2016.
- Report on Geotechnical Investigation dated March 2016 prepared by Douglas Partners and received by Council on 6 May 2016.
- Acoustic Assessment prepared by Renzo Tonin and Associates dated 3 May 2016 and received by Council on 6/5/2016
- BCA Assessment Report prepared by BCA Logic dated 29 April 2016 and received by Council on 6 May 2016.
- Accessibility Report prepared by BCA Logic dated 29 April 2016 and received by Council on 6 May 2016
- Water Sensitive Urban Design Statement prepared by Office of Andrew Daly Architect received by Council on 6 May 2016.
- Arboricultural Development Impact Assessment Report prepaid by Bird Tree Consultancy dated 29 March 2016 - Rev A and received by Council on 6 May 2016. And additional report prepaid by Bird Tree Consultancy dated 19 August 2016- and received by Council on 26 August 2016
- Asbestos Compliance Report dated November 2016 prepared by DLA Environmental Services and received by Council on 22 November 2016

#### **Contact with relevant parties**

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

#### **Internal Referrals**

##### **Engineering Comments**

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

##### **Building Comments**

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

##### **Landscaping Comments**

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

## Heritage Comments

Council's Heritage Officer had provided the followings commented on the original proposal:

### Heritage Status

*Part of the subject site is listed on the State Heritage Register as Item Number 00936 – Substation.*

*This part of the site is also included on Schedule 5 of the Manly Local Environmental Plan 2013 (MLEP), as amended, as item I14 – Electricity Substation.*

### Existing Property

*The subject site comprises of four lots; Lot 1 and 2 DP 9860 is the location of the former Balgowlah Substation, Lot 3 DP 9860 is the location of 81 Griffiths Street, an Interwar period bungalow constructed in 1928 and Lot 72 DP 9860, which is the site of 46 Boyle Street, another Interwar period bungalow.*

*A site visit was undertaken on 11 December 2015 and 17 June 2015.*

### Proposal

*The current proposal comprises the adaptive reuse of the former substation as a child care centre, incorporating 81 Griffiths Street and 46 Boyle Street. This includes:*

- 1. The demolition of existing structures within the Balgowlah Zone Substation including original and later transformer bays and toilets*
- 2. Restoration of the significant brickwork, gantry and levers*
- 3. Demotion of 81 Griffiths Street and 46 Boyle Street*
- 4. Construction of underground carpark*
- 5. Construction of play areas and amenities for the proposed child care centre.*

### Comments

*Generally speaking, the applicant and architect should be commended for adopting a best practice conservation approach for the project. The design has worked to ensure that the most significant elements of the site have been retained, particularly the Switch Room, Handling Bay and Air-Raid Shelter.*

*There are a number of specific aspects of the proposal which require particular consideration, as outline below:*

<b>Proposed Works</b>	<b>Comment</b>
<i>1. The demolition of existing structures within the Balgowlah Zone Substation including original and later transformer bays and toilets</i>	<i>The elements proposed for demolition have been ranked as having “some” heritage significance, so their removal will have an impact on the place, however, given the retention of the “exceptional” elements (Switch Room, Handling Bay and Air-Raid Shelter), including moveable heritage, this impact is acceptable.</i>

<p>2. Restoration of the significant brickwork, gantry and levers</p>	<p>The main substation building (Switch Room and Handling Bay) are proposed for restoration and reuse, the Handling Room as the main entrance, the Switch Room as meeting room/kitchen/play space. It is proposed to retain the Handling Room unchanged, enabling visitors to experience the full height of the room, as well as the gantry crane and associated equipment which is proposed to be conserved in situ.</p> <p>It is also noted that it is the intention of the applicant to undertake conservation works as specified in a Conservation Schedule to be prepared for the site.</p>
<p>3. Demotion of 81 Griffiths Street and 46 Boyle Street</p>	<p>It is proposed to demolish both neighbouring houses and incorporate the land into the development. The properties are representative of a common period of development, well represented in the Manly area. They are not included on the LEP heritage schedule, nor identified as contributing to a conservation area, so the impact incurred by their demolition is nominal and can be mitigated with archival recording.</p>
<p>4. Construction of underground carpark</p>	<p>It is understood that there is limited potential for archaeological significance on the site. Construction of the car park is unlikely to impact on the significance of the place.</p>
<p>5. Construction of play areas and amenities for the proposed child care centre.</p>	<p>It is clear that the scheme has been developed with the retention of the site's heritage significance as a key criteria. Whilst changes are proposed, the significant elements are to be retained, and the remainder of the development has been designed to complement and enhance the place's significance.</p>

The only issue requiring further consideration is the proposed fence along the Boyle Street boundary. It is currently proposed to use a horizontal weather board above a rendered masonry foundation. The use of horizontal weatherboards is not really in keeping with the materials palette of the site, and it may be more appropriate it use vertical timber palings. These are the materials currently used, and are also appropriate to the surrounding residential context in which the site is positioned.

It is also noted that the proposed works will not impact on the other heritage items in the vicinity of the subject site.

Reference is also made to the archival recording made of the Substation prior to decommissioning by FuturePast Consulting. This document is held in the NSW Heritage Council library, and negates the requirement for the application to undertake a similar recording prior to this development.

#### Recommendations

On the whole, the proposal provides for a well-conceived and innovative solution for the site and the adaptive reuse of the building. Whilst it is considered that there may be some impact on the site, the elements with the highest levels of heritage significance are proposed to be retained, and reused.

*As such, approval is acceptable on heritage grounds, subject to the inclusion of recommended nonstandard and standard conditions of consent:*

Comments in response to amended plans:

*"Amended plans have been submitted for the Griffith Street Substation adaptive reuse proposal, resulting from a meeting on site with the representative from the Heritage Division, Dept of Environment and Heritage.*

*The amended plans provide additional details regarding the façade treatments.*

*The changes are in accordance with those agreed on site and are acceptable from a heritage perspective.*

**Waste Comments**

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

**Environmental Health**

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

*"Further information is required regarding Acid Sulphate Soils. The proposed development is situated on Class 5 Acid Sulphate Soil land, and is within 500m of Class 4 Acid Sulphate Soil land. Due to the proposed excavation of the basement carpark, further information should be sought in accordance with Clause 6 of the LEP*

*The Detailed Site Investigation Report prepared by DLA Environmental Services identifies the site is suitable for the intended use, pending an asbestos clearance certificate. It was also noted there were several exceedances in the levels detected for various heavy metals (November 2015). The validation report provided by the site auditor validates the remedial action works conducted prior to this date (September 2014). Further information regarding proposed remediation works considering findings of the recent investigation should be provided prior to granting consent*

*The acoustic compliance report identified existing background levels and predicted noise levels at the closest residential receivers based on the installation of various acoustic measures. It was noted the assessment did not include frequency analysis in accordance with project-specific noise criteria*

*The sound power values identified in the acoustic compliance report identify a noise level of 91dB(A) for external play area A5 which adjoins a residential property. This level is considered excessive. The noise level as identified by the consultant is predicted to be 44dB at the residential receiver location. This is a significant reduction in noise level. Certification of acoustic measures implemented to achieve adequate noise attenuation should be provided*

*The predicted noise levels identified in the acoustic compliance report have been assessed based on the assumption that half of the children will be involved in active play and half involved in passive play within each area at any given time. The predicted noise levels for the various external play areas which have been identified in the report are based on the assumption of a certain number of children in this area at one time. This should be taken into consideration and a management plan developed and implemented to minimise the potential noise impacts from the proposed use*

*The acoustic compliance report does not provide for an assessment of potential acoustic impacts associated with proposed mechanical plant. It is understood the specific details are not yet known. The proposed mechanical plant may present an impact on the acoustic amenity of the residential receivers which must be considered.*

*Additional non-standard conditions have been drafted should the application be considered for approval:*

**ANS01**

*Mechanical plant situated on the premises must be acoustically treated to ensure the noise emissions do not exceed 5dB(A) 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.*

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

**ANS02**

*A plan of management for the operation of the child care facility must be entered into with Council prior to issue of an Occupation Certificate. The ongoing operation of the child care facility must be in accordance with the Plan of Management. The Plan of Management must include, but not be limited to:*

- *Measures implemented to minimise noise impacts on surrounding residential premises (including management/supervision of external play areas)*
- *Operational procedures of the child care facility*
- *Method of recording and actioning complaints received directly from affected residents*
- *Management procedures to ensure odours do not become a public nuisance*

*Reason: This condition has been applied to maintain a reasonable level of amenity to the area.*

**ANS03**

*The cumulative noise level from the operation of the facility must not exceed the background noise level by more than 5dB(A) at any time as measured at the boundary of the premises.*

*Reason: To protect the acoustic amenity of neighbouring properties*

**ANS04**

*Prior to issuing the Occupation Certificate, a report prepared by an accredited acoustic consultant must be submitted to Council assessing compliance with noted noise conditions of this consent. The report must certify acoustic mitigation measures implemented in accordance with conditions of this consent. Any recommendations made by the consultant must be implemented prior to issuing the Occupation Certificate.*

*Note: Any noise measurements must be carried out in accordance with Australian Standard AS 1055.1-1997.*

*Reason: To protect the acoustic amenity of neighbouring properties"*

The applicant has provided updated Acoustic Assessment Report, Site Validation Report and Site Audit Report which were considered satisfactory. Council also received Asbestos Compliance Report on 22 November 2016, which was reviewed by Councils Environmental Health Officer and considered satisfactory.



## **Access Comments**

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

### *"Accessible Parking*

*It is noted that the accessible parking space is provided on the left hand side of the driveway entry away from the lift, which is on the right hand side. Crossing the driveway without a clearly delineated pathway compromises the safety of a wheelchair user. The applicant to consider reconfiguring the parking layout and providing an accessible parking space as close to the lift as possible to minimise the risk.*

*The following points may give some guidance to the DA planner in preparing conditions:*

- Ensure that an overhead clearance of minimum 2500cm is provided above the designated accessible car space and shared area in accordance with AS/ NZS 2890.6 Cl.2.4.*
- The accessible parking space must be provided and identified accordingly and has a bollard installed in the shared area to prevent it from being blocked by another vehicle – AS/ NZS 2890.6 Cl.2.2 and 3.1*
- The plans must show a continuous accessible pathway from the accessible space to the lift. Prior to the issue of Occupation Certificate, to verify this is provided and marked by yellow slip resistant lines as per AS/ NZS 2890.6 Cl.3.2.*
- Ensure the accessible parking space and the above pathway are well lit according to AS1428.2 Cl.19*
- Directional signage has to be provided to the lift, as there is no clear line of sight from the accessible space.*
- The airlock prior to the lift entry must be accessible for a wheelchair user to access independently – no door at the airlock would be preferable.”*

## Assessing Officer Comments

Recommended conditions include compliance with the required legislation and Australian standards.

## **Traffic Comments**

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 letter accompanying the amended plans that the centre will require 27 staff meaning 27 parking spaces as per the DCP plus a drop off/pick up zone are required. The amended plans increase the parking supply from 25 to 27 spaces, the letter from GTA consultants dated 19 August advises that 9 drop off pick up spaces are now provided however the plans only show 6. It is therefore assumed that the disabled parking space and the two new parking spaces are included in the tally of drop off spaces. It is noted that GTA's letter has justified the level of parking provision on the basis of RMS surveys of child care centre parking demand. It is accepted on the basis of those surveys that 27 spaces is an acceptable level of parking provision for a centre of this size and that 9 parking spaces is an appropriate level of drop off provision. Given the proximity of the site to public transport routes on Sydney Road and Balgowlah Road, the staff parking provision of 18 spaces is considered adequate. It is noted that the centre is within close proximity to the Manly West public school and it is therefore appropriate that provision for drop off and pick up activity is made on site and not on street as demand for parking is high during school drop off and pick up periods. “*

*Non-standard and standard conditions are suggested for any approval of this development:*

## **Children Services Comments**

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

*"Based on 147 childcare places:*

- Number of 0-2 aged children is 57 requiring 15 staff (ratio of 1 educator to 4 children)*
- Number children aged 2-3 years is 30 requiring 6 staff (ratio of 1 educator to 5 children)*
- Number of children aged 4-5 years is 60 requiring 6 staff (ratio of 1 educator to 10 children)*

*The total number of staff is 27 with 14 car parking spaces allocated for staff only."*

## Assessing Officer's Comments

A compliant 27 spaces are provided on site.

## External Referrals

### **NSW Office of Environment and Heritage**

The proposal was referred to the NSW Office of Environment and Heritage Office. General Terms of approval were received from the NSW Heritage Council – Reference No DOC 16/240761 dated 16/11/2016 and received by Council on 18/11/2016 and are included as an attachment to this report.

## 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 - Balgowlah Zone Substation Remediation Validation Report prepared by Jacobs Group Pty Ltd dated 16 September 2014, Site Audit Report dated September 2014 prepared by Environ and Detailed Site Investigation Report dated December 2015 prepared by DLA Environmental Services received by Council on 6 May 2016 and Asbestos Compliance Report dated November 2016 prepared by DLA Environmental Services received by Council on 22 November 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 R1 – 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 ancillary use for the surrounding residential use 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.	Principal Development Standards	Requirement	Proposed	Complies Yes/No	Comments
4.3	Height of buildings	8.5m	8.4m  Existing building- approx.10.99m	Yes  Existing and unchanged	Yes
4.4	Floor Space Ratio	0.60:1 1311m <sup>2</sup>	0.44:1 962.81m <sup>2</sup>	Yes	Proposal complies with this clause

## Part 5 Miscellaneous Provisions

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

5.	Miscellaneous Provisions	Applies	Complies	Comments
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 NSW Office of Environment and Heritage and Council's Heritage Advisor provided earlier in the report

## Part 6 Local Provisions

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

6.	Local Provisions	Applies	Complies	Comments
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	No	N/A	N/A
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

**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**

#### **Mainly Development Control Plan 2013 (Amendment 8)**

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**

<b>Issues</b>	<b>Consistent with principle</b>
Streetscape	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 provides a contemporary addition to the existing heritage item on site which identifies the heritage significance of the site and provides an adaptive reuse of the building for the provision of child care services, which is an in demand service within the local area. The proposed development addresses and complements the built form and style of the heritage item. The additions are of a height, bulk and scale that will not dominate the item and will positively contribute to the existing streetscape, 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 shadow diagrams at 9.00am, 12.00pm and 3.00pm during the winter solstice noting the impact on the adjoining properties. It is noted that the proposed development will cast shadows towards Boyle Street at 9.00am and towards the rear yard of the subject site at 12pm. Albeit the proposal will cast afternoon shadows to 79 Griffiths Street which is located towards the eastern side of subject site, the property will continue to access compliant levels of solar access between the hours of 9am to 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 will provide adequate setbacks to the adjoining properties including a landscape buffer and provision of acoustic pergolas, which will ensure reasonable levels of privacy and amenity of adjoining properties. The proposed acoustic pergolas are setback from the eastern and rear southern boundaries to reduce the bulk of these pergolas and ensure amenity and privacy of adjoining properties, thus satisfying the objectives of this clause.

#### **Part 4 - Development Controls**

Site Area: 2185 ;m <sup>2</sup>	Permitted/ Required	Proposed	Complies Yes/No
Wall height East side	6.5m	5.9m	Yes
West side	6.5m	8.4m	No
Number of Storeys	2	2 plus basement	Yes
Roof height	2.5m	Less than 2.5m	Yes
Setback Front	6.0m or streetscape	4.5m	Existing and unchanged to the existing building

Site Area: 2185 ;m <sup>2</sup>	Permitted/ Required	Proposed	Complies Yes/No
East setback side	1.96m	Ground Floor - 1- 1.1m to 1.28m  Level 1- 5.68m	No
West setback side	2.8m	Ground Floor and Level 1- Nil ( Existing)	No (Existing)
Setback Rear	8.0m	Basement carpark - 2.9m  Ground Floor - 15.0m-	No  Yes
Open space - total- OS3	55% (1201.75m <sup>2</sup> )	47% (1009m <sup>2</sup> )	No
Open space - soft	35% (353m <sup>2</sup> )	24% (240m <sup>2</sup> )	No
Number of Endemic Trees	4	4	Yes
Car Parking –	1Space / employee  Drop off and pick up points	27 Total spaces  Including  18- Staff parking spaces  9- drop off and pick up spaces	Yes
Excavation	Generally 1m  Dilapidation or Geotechnical report	Geotechnical Report provided	No

### 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 retains the existing building structure along the western side boundary which has a nil setback. It is it however noted that towards the central part of the building the proposed additions, which includes the lift overrun, marginally breaches the wall height. This non-compliance is however considered satisfactory as it is contained to the central part of the building and will not unreasonably impact upon the amenity of any adjoining properties in relation to views, privacy and overshadowing.

#### 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 eastern side of the proposed building. This non-compliance is however contained to the front ground floor section of the building allowing for more than adequate separation to the proposed first floor. It is also noted that adequate landscaping is proposed within the setback to ensure and enhance local amenity and provide a buffer for adjoining properties.

It is also noted that the proposal provides car parking spaces for staff at ground floor level within the rear setback area. However, this area is not likely to result in excessive traffic movements or unreasonably impact upon the amenity of the adjoining property and is considered satisfactory.

#### 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 landscape open space requirements. It is noted that the amended plans received on 18 November 2016 include an additional landscape buffer along the eastern and rear southern boundaries. This ensures acoustic and visual privacy for the adjoining properties and satisfies the intent of this clause.

It is also noted that the proposal requests the removal of five trees and suitable landscaping is proposed to be included which is supported by Council's Landscape Officer and is considered satisfactory.

#### 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.*

As per the requirements of the Manly DCP 2013, one space is required per employee and on site drop/off pick up points for children. The subject application proposes a childcare centre for 147 children, which requires a minimum of 27 staff members. The submitted Traffic assessment justifies the level of parking provided based on the RMS surveys of childcare centres and their parking demand. It stipulates that one car space is required for every six children. The proposal requires 25 car spaces and thus provides more than compliant levels of car parking for the site.

This assessment has been reviewed by Council's Traffic Officer and found to be acceptable. It is noted that the subject site is located within a residential area in close proximity to Manly West Primary School and public transport available along Sydney Road and Condamine Street. Council's Traffic Officer noted that the site provides adequate provisions for drop off and pick up areas on site which is considered satisfactory during the school drop off and pick up periods. Suitable conditions are included in the recommendation to ensure satisfactory parking arrangements 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 spaces for 23 cars which will require excavation. It is 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 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 pergolas on site to ensure reasonable amenity of the neighbouring properties. It is noted further that the proposed development provides adaptive reuse of a heritage item on site while retaining the existing fabric and setting. The proposed development provides adequate opening and outdoor play areas along the north and northeast facing aspect to allow maximum solar access. The proposed playrooms and outdoor play areas are designed to minimise noise impacts to adjoining properties. Adequate landscape buffers along with acoustic pergolas are proposed to reduce noise impact from the proposed centre. It is considered that the proposed development meets the objective and intent of this clause and is considered acceptable.

#### **Part 5 - Special Character Areas and Sites**

<b>Special Character Areas and Sites</b>	<b>Applicable</b>
Conservation Area	No
Foreshore Scenic Protection Area	No
Threatened Species and Critical Habitat	No
Flood Control Lots	No
Riparian Land and Watercourses	No
Road Widening	No
Gurney Crescent and Clavering Road, Seaforth	No

#### **Comment:**

There are no relevant special character areas and sites contained within Part 5 of the Manly DCP 2013 (as amended) to consider as part of this assessment

**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 unreasonable 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 Section 2.2 of Council's Development Control Plan 2013 (Amendment 8).

The submitted application was notified from 10 May 2016 until 17 April 2016 and an advertisement was placed in The Manly Daily on 18 May 2016.

The application was re-notified on 13 September 2016 until 19 October 2016 and an advertisement was placed in The Manly Daily on 19 September 2016.

In response to the above, a total of seventy-one (71) submissions were received, including five (5) confidential submissions, one (1) online petition containing 163 signatures (at the close of business on 21/11/2016) and twenty-nine (29) submissions in support of the development.

The main issues of concern are discussed as follows:

Issues raised in the objecting submissions	Comments on submissions
Traffic impact and impact on adjoining streets	A Traffic Impact Assessment was submitted with the application and reviewed by Council's Traffic Section. It is considered that proposed traffic movements will not result in significant traffic generation which will adversely impact upon the capacity of the local roads.
Parking/Inadequate on-site parking	<p>The proposal provides compliant parking spaces and drop off/pick points as noted earlier in the report. The amended plans increased car parking spaces from 25 to 27 and the proposed carpark allows vehicles to enter and exit the site in a forward direction.</p> <p>As noted earlier in the report, the proposal was reviewed by Council's Traffic Section and is supported subject to included recommended conditions of consent.</p>
Pedestrian, child and vehicular safety	An assessment of safety and segregation and pedestrian and vehicular safety along with the maneuverability of vehicles has been undertaken by Council's Traffic section as part of their assessment and found acceptable.
Bulk and scale	The proposed development remains compliant with the principal development standards for the site and provides a building which remains lower in building height to the existing heritage item on site.

Overshadowing	The issues relating to overshadowing have been addressed earlier in the report.
Number of children/Staffing numbers	<p>The number of children and staff is considered satisfactory based on the proposal providing a built form and onsite car parking that are consistent with the relevant controls.</p> <p>To operate the childcare centre the applicant will need to obtain a separate licence and comply with the related legislation which will determine their numbers. The child numbers cannot exceed the consent maximum of 147.</p> <p>Attached recommended conditions of consent require the operator to obtain a licence outside this consent process.</p>
Loss of amenity/Noise	The applicant provided an Acoustic Compliance Report which included an assessment of predicted noise levels. This report was reviewed by Council's Environmental Health Officer and considered satisfactory subject to inclusion of recommended conditions of consent.
Pergolas and its offset from the side boundary	<p>In response to the concerns raised by submissions, the applicant has provided amended plans (Revision 9 - dated 18/11/2016) which include increased setbacks to the proposed pergolas and a landscape buffer.</p> <p>It is considered that subject to the inclusion of these increased setbacks and landscape buffer, the proposed development will not unreasonably impact upon the adjoining properties and is supported.</p>
Garbage/Deliveries	<p>The submitted plans and waste management plan have been reviewed by Council's Waste Officer. Suitable conditions 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>
Heritage	<p>Concerns raised around the use of the heritage item as a childcare Centre have been assessed by Council's Heritage Advisor and the NSW Office of Environment and Heritage.</p> <p>It is considered that the proposal is an adaptive re-use of the building and retains the heritage values of the site.</p>

Location / Need for the facility/ financial viability	The proposed use as a childcare Centre is permitted with consent within R1 - General Residential zone. Issues relating to financial viability are outside the purview of the subject application.
---	---

Issues raised in the submissions supporting the proposed development:

- Greatly benefit the local community and address the shortage of child care in the local community
- Will provided on site car parking
- Management of the center is professional and considerate of the local residents
- In close proximity to school, buses and Stockland shopping centre.

#### **79C(1) (e) - the public interest.**

It is considered that subject to inclusion of recommended conditions of consent, the wider public interest is served by the provision of an appropriate land use within this locality.

#### **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 contributions are applicable.

#### **CONCLUSION:**

The application has been assessed having regard to Section 79C of the Environmental Planning and Assessment Act 1979, Manly Local Environmental Plan 2013 and the Manly Development Control Plan 2013 (Amendment 8) and is considered to be satisfactory for **Approval**, subject to conditions.

#### **RECOMMENDATION**

That Development Application No. 112/2016 for Demolition works, alterations and additions to the existing Electricity Sub-station for use as a Child Care Centre to accommodate one hundred and forty-seven (147) children at 81-83 Griffiths Street and 46 Boyle Street, Balgowlah be **Approved** subject to the following conditions/for the following reasons Here}:-

#### **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 not to exceed one hundred and forty seven (147) 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 (both days inclusive). Any change to this will require development consent.

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

**ANS04**

The four (4) 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.**

**ANS05**

This approval does authorise the erection of any signage. A separate Development Application must be obtained for any proposed signs (other than exempt and complying under relevant State Planning Policies).

**Reason: To ensure the heritage values of the site are not impacted by any signage and to ensure that the signage controls of the Manly DCP are adhered to.**

**ANS06**

A total of 27 spaces are to be provided and allocated as follows:

- (i) Pick-up/drop-off - 9 parking spaces intended for drop-off/pick-up activity (numbered 1-3, 10-13 on the plans and the two new spaces) are to be signposted as "10 min parking Drop Off/Pick Up Only" and marked in paint as "Visitor" parking.
- (ii) Staff parking - 18 parking spaces intended for staff use (numbered 4-9, 14-21 and 22-25 on the plans) are to be marked in paint for "Staff" parking.

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

**ANS07**

Parking space numbered 1 on the plans and the adjacent unloading area be marked and signposted in accordance with AS/NZS 2890.6 - Offstreet parking for people with disabilities

**Reason : To ensure appropriate traffic management on site.**

**ANS08**

Mechanical plant situated on the premises must be acoustically treated to ensure the noise emissions do not exceed 5dB(A) 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.

**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 facility is to be prepared and submitted to Council's Environmental Health Officer for approval prior to issue of the Occupation Certificate. The ongoing operation of the child care facility must be in accordance with the Plan of Management. The Plan of Management must include, but not be limited to:

- Measures implemented to minimise noise impacts on surrounding residential premises (including management/supervision of external play areas)
- Operational procedures of the child care facility

- Method of recording and actioning complaints received directly from affected residents
- Management procedures to ensure odours do not become a public nuisance

**Reason: This condition has been applied to maintain a reasonable level of amenity to the area.**

#### **ANS10**

The cumulative noise level from the operation of the facility must not exceed the background noise level by more than 5dB(A) at any time as measured at the boundary of the premises.

**Reason: To protect the acoustic amenity of neighbouring properties**

#### **ANS11**

Prior to issue of the Occupation Certificate, a report prepared by an accredited acoustic consultant must be submitted to Council assessing compliance with noted noise conditions of this consent. The report must certify acoustic mitigation measures implemented in accordance with conditions of this consent. Any recommendations made by the consultant must be implemented prior to issue of the Occupation Certificate.

**Note:** Any noise measurements must be carried out in accordance with Australian Standard AS 1055.1-1997.

**Reason: To protect the acoustic amenity of neighbouring properties"**

#### **ANS12**

The proposal shall comply with Australian Standard AS1428.2 Design for Access and Mobility.

**Reason: To ensure compliance with Australian Standards.**

#### **ANS13**

All heritage features identified for retention should be identified on all construction drawings as "heritage protection zones". Plans are to be notated accordingly prior to issue of the Construction Certificate.

**Reason: To ensure the protection of heritage significant elements on the site.**

#### **ANS14**

A Construction Environmental Management Plan (CEMP) should be prepared for the physical works on the site which includes protective measures for the significant heritage elements of the site. This should include a Sediment Control Plan, to ensure that sediment such as excavated spoil is controlled and kept away from the significant heritage elements. This report should also address issues such as vibration associated with excavation of the basement level, and should include a strategy for avoiding damage to the significant elements of the site to be retained. The CEMP is to be submitted to Council's Heritage Advisor prior to issue of the Construction Certificate.

**Reason: To ensure the protection of heritage significant elements on the site.**

#### **ANS15**

A Heritage Interpretation Strategy is to be prepared for the site. The Interpretation Strategy should be prepared in accordance with the NSW Heritage Council's "Interpreting Heritage Places and Items Guidelines" document. It should provide guidance on the best means of interpreting the significance of the site to the users of the site once it has been adaptively reused. It should be prepared by a suitably qualified consultant with experience in undertaking interpretation strategies. It must be submitted to and approved by Council's Heritage Advisor, prior to issue of any Construction Certificate. The recommendations are then to be implemented as part of the approved development.

**Reason: To reveal the cultural significant aspects of the place as a historical record, and assist in the public understanding of the place.**

**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. DA112/2016:*

<b>Plan No. / Title</b>	<b>Issue/ Revision &amp; Date</b>	<b>Date Received by Council</b>
0301-Site Plan	Issue 9 dated 18/11/2016	21/11/2016
0302- Basement	Issue 9 dated 18/11/2016	21/11/2016
0303- Ground Floor	Issue 9 dated 18/11/2016	21/11/2016
0304- First Floor	Issue 9 dated 18/11/2016	21/11/2016
0305- Roof Deck	Issue 9 dated 18/11/2016	21/11/2016
0306- Ground Floor Landscape Plan	Issue 9 dated 18/11/2016	21/11/2016
0307-First Floor Landscape Plan	Issue 9 dated 18/11/2016	21/11/2016
0401 Elevations	Issue 9 dated 18/11/2016	21/11/2016
0402 Elevations	Issue 9 dated 18/11/2016	21/11/2016
0403 Elevations	Issue 9 dated 18/11/2016	21/11/2016
0404 Elevations	Issue 9 dated 18/11/2016	21/11/2016
0501 Section 1	Issue 9 dated 18/11/2016	21/11/2016
0502 Section 2	Issue 9 dated 18/11/2016	21/11/2016
0503 Section 3	Issue 9 dated 18/11/2016	21/11/2016
0504 Section 4	Issue 9 dated 18/11/2016	21/11/2016
0611- Acoustic Pergola	Issue 9 dated 18/11/2016	21/11/2016
0605- Ramp Set out Diagram	Issue 3 dated 4/29/2016	6/5/2016
0606- Boyle Street Ramp	Issue 3 dated 4/29/2016	6/5/2016
0607-Griffiths Street Ramp	Issue 3 dated 4/29/2016	6/5/2016
Letter including General Terms of Approval received from NSW Heritage Council – Reference No DOC 16/240761	Dated 16/11/2016	18/11/2016
Letter from Ausgrid — Reference No D16/337741	Dated 17 May 2016	17/5/2016

*Reference Documentation affixed with Council's stamp relating to Development Consent No. DA112/2016:*

- Statement of Environmental Effects prepared by Planning Ingenuity dated April 2016 received by Council on 6/5/2016 in support of the application. Amended Statement of Modifications prepared by Office of Andrew Daly Architect dated 19/8/2016 and received by Council on 26/8/2016.
- Amended Plan of Management – Balgowlah Centre Information dated November 2016 and received by Council on 18/11/2016.
- Transport Impact Assessment prepared by GTA Consultants dated 4/5/2016 and received by Council on 18/11/2016 and additional report prepared by GTA Consultants dated 19/8/2016 and received by Council on 26/8/2016.
- Heritage Impact Statement prepared by City Plan Service dated May 2016 and received by Council on 18/11/2016.
- Balgowlah Zone Substation Conservation Management Plan- Final dated July 2011 prepared by Futurepast Heritage Consulting and received by Council on 6/5/2016.
- Detailed Site Investigation Report dated December 2015 prepared by DLA Environmental Services dated and received by Council on 6 May 2016.
- Site Audit Report dated September 2014 prepared by Environ received by Council on 6 May 2016.



- Balgowlah Zone Substation Remediation Validation Report prepared by Jacobs Group Pty Ltd dated 16 September 2014 and received by Council on 6 May 2016.
- Report on Geotechnical Investigation dated March 2016 prepared by Douglas Partners and received by Council on 6 May 2016.
- Acoustic Assessment prepared by Renzo Tonin and Associates dated 3 May 2016 and received by Council on 6/5/2016
- BCA Assessment Report prepared by BCA Logic dated 29 April 2016 and received by Council on 6 May 2016.
- Accessibility Report prepared by BCA Logic dated 29 April 2016 and received by Council on 6 May 2016
- Water Sensitive Urban Design Statement prepared by Office of Andrew Daly Architect received by Council on 6 May 2016.
- Arboricultural Development Impact Assessment Report prepaid by Bird Tree Consultancy dated 29 March 2016 - Rev A and received by Council on 6 May 2016. And additional report prepaid by Bird Tree Consultancy dated 19 August 2016- and received by Council on 26 August 2016
- Asbestos Compliance Report dated November 2016 prepared by DLA Environmental Services and received by Council on 22 November 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
  - 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.

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

5 (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 (m<sup>2</sup>)
- 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.

6 (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.

7 (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.

8 (2HT04)

A Maintenance Plan for the site is to be prepared in accordance with the NSW Heritage Council's "Preparing a Maintenance Plan" document. This document should include a cyclical maintenance program, covering both annual and long term maintenance requirements. It must be submitted to and approved by Council's Heritage Advisor prior to issue of the Construction Certificate.

Reason: To ensure the ongoing conservation and protection of Manly's significant heritage resources.

9 (2HT05)

The applicant is to commission an experienced heritage consultant to work with the consultant team throughout the design development, contract documentation and construction stages of the project. The heritage consultant is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The heritage consultant is to be provided with full access to the site and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project. Written details of the engagement of the experienced heritage consultant must be submitted to Council prior to issuing of any Construction Certificate for works on the site.

Reason: To ensure that all matters relating to significant fabric and spaces are resolved using best practice for heritage conservation.

10 (2HT10)

A photographic archival record is to be made of all the existing buildings and structures (including the interiors and exteriors and their setting) in accordance with NSW Heritage Council Guidelines "Photographic Recording of Heritage Items Using Film or Digital Capture" prior to commencement of works or any demolition works. The record is to include measured drawings of the existing buildings. Two copies are to be submitted to Council's satisfaction prior to the release of Construction Certificate. Written confirmation that the Council reserves the right to use the photographs for its own purposes and genuine research purposes is also to be included.

Reason: To provide a historic record of heritage significant works on the site for archival purposes.

11 (2HT13)

The reuse and recycling of significant elements such as bricks, sandstone blocks, verandah thresholds, wall vents, ceiling roses and timber joinery etc. is required. The recycling is to occur, preferably on site and/or to suitable professional recycling yards specialising in the recycling of historic building materials. Removal and storage of these materials is to be carefully carried out by the workers and a specific stockpile area is to be designated and protected. A detailed plan for execution of the above requirements is to be submitted to and approved by Council's Heritage Advisor prior to issue of Construction Certificate.

Reason: To allow for preservation of cultural resources within the Manly Council area.

12 (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.*

#### 13 (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.*

#### 14 (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.*

#### 15 (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.*

16 (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.

17 (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.

18 (2PT05)

Vehicular manoeuvring paths must be provided to demonstrate all vehicles can enter or depart the site in a forward direction without encroaching on required car parking spaces. The drawings must be compliant with Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. Drawings must be submitted with the Construction Certificate application.

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

19 (2WM02)

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

The plan should detail the type and estimate the amount of demolition and construction waste and nominate how these materials will be sorted and dealt with. Weight dockets and receipts must be kept as evidence of approved methods of disposal and recycling. All demolition and excess construction materials are to be recycled where ever practicable. It should include consideration of the facilities required for the ongoing operation of the premises' recycling and waste management services after occupation. A template is available from the Manly Council website.

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

20 (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**

21 (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.

22 (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.

23 (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.

24 (3LD01)

All healthy trees and shrubs identified for retention on the submitted landscape drawing are to be suitably marked for protection before any construction works start.

Reason: To ensure the trees conditioned to stay on the site are suitably protected during any construction works.

25 (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.

26 (3PT02)

Applications for a construction zone on a local road require 28 days notice to Council indicating location and length. All construction zones require the approval of the Manly Traffic Committee.

Reason: To ensure Council and the Traffic Committee 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**

27 (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.

28 (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.

29 (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.

### 30 (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.

### 31 (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.



### 32 (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 Safety 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.

### 33 (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.

### 34 (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.

### 35 (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.

### 36 (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.

### 37 (4HT01)

The proposed works are to be carried out in a manner which minimises any demolition, alteration, new penetrations/fixing or irreversible damage to the significant fabric of the existing buildings which are listed as heritage items in Schedule 5 – Environmental Heritage of the Manly Local Environmental Plan 2013. Particular care must be taken to minimise damage to the significant fabric of the building during the carrying out of the internal fit out and any electrical or plumbing works.

Reason: To ensure the heritage significance of the site is not adversely affected and best practice for heritage conservation is undertaken.

38 (4HT02)

The applicant is to commission experienced tradespersons (as appropriate) skilled in traditional building and engineering trades to carry out the proposed scope of works.

Reason: To ensure all matters relating to significant fabric and spaces are undertaken using best practice for heritage conservation.

39 (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.

40 (4HT07)

Alterations to, and demolition of, the existing building shall be limited to that documented on the approved plans (by way of notation) or conditioned in this consent. No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is shown to be retained.

Should any portion of the existing building which is indicated on the approved plans to be retained, be damaged for whatever reason, all the works in the area of this damaged portion are to cease and written notification given to Council. No work is to resume until the written approval of Council is obtained.

Reason: To ensure that all matters relating to significant fabric and spaces are resolved using best practice for heritage conservation.

41 (4LD02)

All healthy trees and shrubs identified for retention on the drawing are to be:

- (a) suitably protected from damage during the construction process, and
- (b) retained unless their removal has been approved by Council.

Reason: This is to ensure that the trees on the site which do not have approval to be removed on the site are suitably protected during any construction works.

Internal Note: This condition is to be imposed with 3LD01.

42 (4LD03)

The felling, lopping, topping, ringbarking, wilful destruction or removal of any tree/s unless in conformity with this approval or subsequent approval is prohibited.

Reason: To prohibit the unnecessary damage or removal of trees without permission from Council during any construction.

43 (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.

44 (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.

45 (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.

46 (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.

47 (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.

48 (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.

49 (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.

50 (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.

51 (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.

52 (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.

53 (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**

54 (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.

55 (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.

56 (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.

57 (5HT01)

The approved Interpretation Strategy must be implemented to the satisfaction of Council prior to issue of the Occupation Certificate.

Reason: To reveal the cultural significant aspects of the place as a historical record.

58 (5LD01)

A qualified Landscape Consultant is to submit a Certificate of Practical Completion to the Principal Certifying Authority prior to the issue of the Occupation Certificate, stating the work has been carried out in accordance with the approved Landscape Drawing and a maintenance program has been established.

Reason: This is to ensure the landscaping is planted in accordance with the drawing and maintained appropriately

59 (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.

60 (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.

61 (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.

62 (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.

63 (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**

64 (6AP04)

All towers, ventilation/ducting, exhaust fan structures, chillers and condensers for air-conditioning and any other structures on the roof are to be the subject of a separate Development Application.

Reason: To maintain the amenity of the surrounds.

65 (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.

66 (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.

67 (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.

68 (6FC01)

The erection of dividing fences under this consent does not affect the provisions of the Dividing Fences Act 1991. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.

Note: Further information can be obtained from the NSW Department of Lands. Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. More than 85% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. Contact the Community Justice Centre either by phone on 1 800 990 777 or at <http://www.cjc.nsw.gov.au/>.

Reason: To ensure the applicant is aware the Dividing Fences Act 1991 may be used to resolve disputes about dividing fences.

69 (6FP01)

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

Reason: To ensure pedestrian safety.

70 (6LP03)

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

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

71 (6LP04)

Leighton Green Cypress Cupressocyparis leylandii or any of its cultivars, must not be planted on the site for the life of the development. In the event of any inconsistency between this condition and the development application documents, this condition will prevail to the extent of the inconsistency.

Reason: To reduce the potential for adverse amenity effects such as overshadowing, loss of views, and loss of plant diversity.

72 (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.

73 (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.

74 (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.

75 (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.

76 (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.

77 (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.

78 (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.

79 (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.

80 (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.

81 (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.

82 (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.

98 (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.

84 (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.

85 (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.

86 (6WM07)

Suitably constructed waste disposal containers must be kept on the property for the storage of any clinical, contaminated, sharps or related waste prior to final disposal of the material at a facility approved by the Department of Environment and Climate Change and as per the requirements of the NSW Health Department.

Reason: To comply with legislation and protect public health and safety.

87 (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.