



## Minutes

### Land Use Management Committee

Held at Council Chambers, 1 Belgrave Street Manly on:

**Monday 7 March 2005**

*Copies of business papers are available at the Customer Services Counter at Manly Council, Manly Library and Seaforth Library and are available on Council's website:  
[www.manly.nsw.gov.au](http://www.manly.nsw.gov.au)*

**TO THE MAYOR AND COUNCILLORS OF THE COUNCIL:**

The Land Use Management Committee, having met at 7:41 pm on Monday 7 March 2005, in the Council Chambers, Town Hall, Manly, to consider the various matters referred to it, now reports the decisions reached and the recommendations made which are stated hereunder.

The decisions taken and indicated by the prefix "Resolved" as distinct from "Recommendations" made to the Council, were taken pursuant to authority delegated to this Committee vide Minutes Number 139 of 6th September, 2004.

**PRESENT**

His Worship, The Mayor, Councillor Dr Peter Macdonald  
Deputy Mayor Councillor R Morrison  
Councillor B Aird  
Councillor S Cant, Deputy Chairperson  
Councillor P Daley  
Councillor J Evans  
Councillor J Hay, AM  
Councillor A Heasman  
Councillor J Lambert, Chairperson who presided  
Councillor D Murphy  
Councillor M Norek  
Councillor B Pedersen

**ALSO PRESENT**

Henry T Wong, General Manager  
Dave Stray, Manager Development Control  
Julia Paul, Minute Secretariat

**APOLOGIES**

**(File A8/2)**

Nil.

**LEAVE OF ABSENCE**

Nil.

**DECLARATIONS OF PECUNIARY / CONFLICT INTERESTS (File A8/4)**

<b>Name:</b>	<b>Item Number:</b>	<b>Nature of Interest:</b>
Mayor Clr Dr Macdonald	ESD Report No. 11	Conflict of Interest as he is a member of the Golf Club and may not have an unbiased view on this item

His Worship, The Mayor, Councillor Dr Peter Macdonald assumed the Chair at 7.36pm and put a Motion of Condolence.

**MOTION (Macdonald)**

**MOTION OF CONDOLENCE FOR THE PASSING OF MERVYN PAINE**

On behalf of the people of Manly I would like to move a motion of condolence in response to the sad passing of Mervyn Paine, former Mayor of Manly.

Merv Paine was first elected as an Alderman to Manly Council in 1949 and served until 1962. He was re-elected in 1978 and finished his term in 1991; serving a total of some 26 years.

He was the 35<sup>th</sup> person to become Mayor of Manly, filling that role from 1955 until 1959. In his time as Mayor, Merv Paine was particularly concerned with encouraging tourism and growth. He was Chair of the Capital Development Committee, which aimed to attract local and overseas investment to Manly. He was chair of the Council Tourism Sub-committee, and later Chair of the Manly Tourist Bureau, and he appointed the town's first Director of Public Relations.

A Manly boy through and through, he was active in the opposition to plans to amalgamate with Warringah which were proposed in 1958.

He encouraged the production of the Local Town Plan in December 1958 which was particularly concerned with the Market Lane replanning scheme. Paying his own way, he led a trade mission to the US and Canada in 1960, which aimed to encourage investment in Manly.

He was an active member of the Council's Sister Cities Committee and is fondly remembered by many members of staff here.

As well as serving as Mayor and Alderman on Manly Council, Merv Paine was actively involved in other aspects of community life. He was the foundation secretary of the Manly RSL, chairman of the Manly-Warringah branch of Legacy, and president of the North Manly Bowling Club.

Merv Paine passed away on Friday 25th February 2005 and our thoughts are with his loving wife Dulce, their four children - Tim, Nicholas, Julie and Penny -and their grandchildren at this sad time.

**RESOLVED (Macdonald)**

On behalf of the people of Manly I move a motion of condolence in response to the sad passing of Mervyn Paine, former Mayor of Manly and the sympathy of the Council be conveyed to the family.

Merv Paine passed away on Friday 25th February 2005 and our thoughts are with his loving wife Dulce, their four children - Tim, Nicholas, Julie and Penny -and their grandchildren at this sad time.

**For the Resolution:** Councillors Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison, Pedersen, Aird, Evans, Norek and Macdonald.

**Against the Resolution:** Nil.

His Worship, The Mayor, Councillor Dr Peter Macdonald vacated the Chair at 7.41pm and Cllr Lambert assumed the Chair.


**CONFIRMATION OF MINUTES (FILE C17/23)****MOTION (Norek/Heasman)**

That copies of the Minutes of the Meeting of the Land Use Management Committee held on Monday 7 February 2005, having been furnished to each member of the Committee, be taken as read and confirmed as a true record of proceedings of such meeting.

**RESOLVED (Norek/Heasman)**

That copies of the Minutes of the Meeting of the Land Use Management Committee held on Monday 7 February 2005, having been furnished to each member of the Committee, be taken as read and confirmed as a true record of proceedings of such meeting.

**For the Resolution:** Councillors Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison, Pedersen, Aird, Evans, Norek and Macdonald.

**Against the Resolution:** Nil.

**PUBLIC ADDRESSES**

<b>ITEM</b>	<b>PROPERTY DETAILS/PUBLIC SPEAKERS</b>
ES No 9 Applicant	<b>2 Addison Road, Manly</b> John Wynne, C/o URBIS UHD, Sydney
ES No 10 Objector Applicant	<b>10 Lombard Street, Balgowlah</b> Hans Clasio, 12 Lombard Str. Balgowlah Greg Taranto, 10 Lombard Str. Balgowlah
ES No 11 Objector Applicant	<b>85-87 Balgowlah Road, Manly</b> Mrs Madeline Trusler, 83 Balgowlah Road, Fairlight Bob Smith, C/- Manly Golf Club
ES No 12 Objector Applicant	<b>111 Bower Street, Manly</b> Ms Lisa Meadows, 113 Bower Street, Manly Tony Gray, C/- Mellor Gray Architects
ES No 13 Objector Applicant	<b>33 Peacock Street, Seaforth</b> Phil Mudge, 17A Whistler Street, Manly Garry Bray, 188 Willoughby Rd, Crows Nest
ES No 14	<b>Widening of Spit Bridge</b>

Objector	Mr Philip Schmidt, 4/1 Manly Road
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## ENVIRONMENTAL SERVICES DIVISION REPORTS

Environmental Services Division Report No. 9

**2 Addison Road, Manly (DA339/04)**

### SUMMARY

<b><u>Application Lodged:</u></b>	6 July, 2004
<b><u>Applicant:</u></b>	Hiltan Pty Ltd c/o Urbis JHD
<b><u>Owner:</u></b>	Rainyheavens Pty/Ltd
<b><u>Estimated Cost:</u></b>	\$2.7m
<b><u>Zoning:</u></b>	Manly Local Environmental Plan, 1988 - Residential and within the Foreshore Scenic Protection Area
<b><u>Surrounding Development:</u></b>	Multiple dwellings and dwelling houses
<b><u>Heritage:</u></b>	The site adjoins No.1 Addison Road, and the foreshore which are both heritage items in the vicinity

### SUMMARY:

1. DEVELOPMENT CONSENT IS SOUGHT FOR ALTERATIONS AND ADDITIONS TO THE EXISTING BUILDING INVOLVING CONVERSION FOR FIVE (5) RESIDENTIAL UNITS.
2. THE APPLICATION WAS NOTIFIED AND ADVERTISED IN ACCORDANCE WITH COUNCIL'S POLICY AND THREATENED SPECIES LEGISLATION AND SUBMISSIONS WERE RECEIVED.
3. THE APPLICATION WAS REFERRED TO THE LITTLE MANLY PRECINCT COMMUNITY FORUM FOR COMMENT.
4. THE APPLICATION PROCEEDS COUNCIL'S REFUSAL OF DA44/02 AND RESPONDS TO COUNCIL'S PREVIOUS REASONS FO REFUSAL IN THIS CURRENT APPLICATION
5. THE DEVELOPMENT IS CONSIDERED IN TERMS OF COUNCIL'S POLICIES AND PLANS, RELAVENT STATE POLICIES AND PLANS, ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 AND NSW THREATENED SPECIES CONSERVATION ACT 1995. ASSESSMENT AND CONSULTATION IN RESPECT OF ABORIGINAL HERITAGE HAS ALSO BEEN UNDERTAKEN
6. THE PROPOSAL, INCORPORATING ADDITIONAL GEOTECHNICAL INVESTIGATIONS DURING THE ASSESSMENT PROCESS IS GENERALLY SUPPORTED SUBJECT PARTICULARLY TO CONDITIONS FOR PROTECTION OF SIGNIFICANT NATURAL FEATURES (THE ROCK FACE), ADJACENT ABORIGINAL SITES AND CRITICAL HABITAT/ LITTLE PENGUINS
7. COUNCIL HAS RECEIVED A CONCURRENCE OF THE DIRECTOR GENERAL OF THE DEPARTMENT OF ENVIRONMENT AND CONSERVATION
8. NOTICE HAS BEEN GIVEN TO THE HERITAGE OFFICE OF AN INTENTION FOR PARTIAL DEMOLITION OF A HERITAGE ITEM IN ACCORDANCE WITH STANDARD REQUIREMENTS UNDER CLAUSE 22 OF LEP 1988.
9. THE APPLICATION IS PRESENTED TO COUNCIL AT THE REQUEST OF COUNCILLOR LAMBERT.
10. A SITE INSPECTION IS RECOMMENDED.
11. THE APPLICATION IS RECOMMENDED FOR DEFERRED COMMENCEMENT APPROVAL AND 'IN-PRINCIPLE' CONDITIONS OF THE DEFERRED COMMENCEMENT APPROVAL INCLUDE AN ADDITIONAL SETBACK OF THE EXCAVATED BASEMENT AWAY FROM THE CLIFF AND A REVISED SPECIES IMPACT STATEMENT.

**SITE INSPECTION**

A site inspection was conducted on Monday 7 March 2005 of 2 Addison Road , Manly DA339/04 comprising of the following Councillors: Aird, Cant, Hay, Heasman, Lambert, Macdonald, Murphy and Norek

**MOTION (Daley/Hay)**

That pursuant to Section 80(3) ("**deferred commencement**") Environmental Planning and Assessment Act 1979, Development Application No. 339/04 for alterations and additions to the existing building and conversion to five (5) residential units with basement car-parking at 2 Addison Road, Manly (Mandalay Private Hospital) be approved but such approval shall not operate until the applicant has satisfied the following in principal conditions:-

- A. Consistent with environmental precautionary principles for the protection of sensitive natural resources, the applicant shall further setback the extent of the basement excavation from the rear boundary and cliff line by at least another 1.50 metres.
- B. The Applicant shall undertake further geotechnical assessments of the proposed excavation, as modified by Condition A, to ensure that any excavation proposal including the methods to be used are in all respects, capable of satisfying environmental precautionary principles for the protection of sensitive natural resources. A Statement jointly prepared by the Geotechnical Consultant and the project Ecologist, certifying the proposed excavation and the methods proposed to be used are in compliance with environmental precautionary principles for the protection of sensitive natural resources shall be submitted to Council, including any requirements for the submission of a revised *Species Impact Statement*.
- C. Plans as modified by Condition A and Condition B must be submitted to Council for prior assessment and approval. Such plans must demonstrate that the proposed car park layout is capable of complying with the minimum requirements under Council's DCP for the provision of onsite parking and manoeuvring area requirements of the relevant Australian Standards.

Amended Plans and Report under A, B and C above are to be submitted within a period of 6 months pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979. The consent will, when activated operate for a period of two (2) years.

Development Application conditions of consent upon compliance with the above matters are as follows:

1. Generally in accordance with Plans drawings DA00 – DA15 dated July 2004 and received by Council 6 July, 2004, as amended by deferred commencement conditions.
2. Compliance with recommended conditions of the Species Impact Statement dated 15 June 2004 and the submitted Geotechnical reports prepared by Jeffery and Katauskas Pty Ltd.
3. Compliance with the Environmental Management Plan (preliminary) prepared by Tesrol Building Group received by Council on 6 July 2004 and as required to be modified by conditions of this consent. A final Environmental Management Plan incorporating all required amendments and additions is to be submitted with the construction certificate to the satisfaction of the Principal Certifying Authority
4. Heavy excavation works are not to be undertaken during the breeding season (Breeding

season - 1 July to 28 Feb). If penguins arrive in the study area whilst works are being undertaken, all works are to cease and the Threatened Species Unit, Central Directorate of DEC is to be contacted for advise.

5. The applicant is to employ a qualified ecologist and geologist to oversee the proposed works. The function of the ecologist and geologist is to certify the satisfactory implementation of consent conditions. The responsibility of the ecologist and geologist include:
  - Inspection of burrows on site for presence/absence of penguins prior to works commencing
  - Advise the Site Manager/Foreman of the sensitivity of the site, habitat features and consent conditions
  - Educate all contract staff as to the presence of the penguins and the sensitivity of their habitat
  - Ensure works cease if penguins arrive prior to the completion of works and to notify DEC
  - Supervise the erection of any fences on the site such as catch fences and retaining walls, for security and for erosion/sedimentation to ensure minimal impact on the penguins
  - Ensure that work is carried out in a manner that does not interfere or result in the collapse of penguin burrows or habitat
  - Ensure the protection of vegetation on site and re-vegetation with locally indigenous species
  - Ensure the protection of access and egress routes to burrows
6. Following completion of the works, burrows are to be inspected by a qualified ecologist and if found to be damaged, they are to be restored by a suitable qualified person to a similar condition/dimension as prior to construction. Hence the ecologist will need to thoroughly record the dimensions, conditions etc of the burrows and surrounding habitat prior to construction.
7. Any retaining walls / catch fences are to be constructed in such a way as to ensure there is no impact on penguin habitat and under the supervision of a qualified ecologist
8. All artificial lighting shall be provided in accordance with the requirements of the Building Code of Australia. Any lighting used during construction and after completion is to be directed away from penguin burrows and the foreshore area where penguins come ashore.
9. No works are to be undertaken below the cliff line.
10. Habitat below the cliff line is not to be removed or modified in conjunction with the development in its future occupation.
11. Contractors are to be given a copy of the Flora and Fauna Impact Statement and briefed on penguins, critical habitat, access restrictions and effects of disturbance on penguins in their habitat.
12. All construction access to the property will be via Addison Road. No access during construction will be via Little Manly Cove.
13. Hydraulic hammers and other heavy excavation equipment causing vibration must not be used.
14. Equipment is to be operated in short bursts only, to avoid amplification of vibration.
15. No jack hammering on the site, sandstone is to be removed using saws.

16. No work classified here as *'heavy construction work'* including excavation will take place during the breeding season for the Little Penguin (July to February).
17. No night work to be conducted on site (outside scheduled daylight hours).
18. All excavation must be either retained by an engineered retaining structure or battered to stable angles.
19. The use of a wire mesh catch fence on the cliff face 2m high to prevent any dislodged boulders or building debris falling down the cliff face.
20. The proposed excavation work shall be inspected by an experienced Engineering Geologist or Geotechnical Engineer and the stability of the cliff face has to be continuously and regularly monitored. The applicant is to do all the work recommended by the Engineering Geologist or Geotechnical Engineer to ensure that the stability of the cliff face is maintained.
21. Outside lighting is to be minimized especially in areas adjacent to the foreshore.
22. Stormwater management systems should be implemented and maintained to ensure no additional stormwater flow over the cliff.
23. Implementation, regular inspection and maintenance of erosion and sediment control measures such as sediment control barrier fences.
24. Detailed guidelines for the implementation of the drainage concepts; and Installation of stormwater pump out pits and, drainage inlet filters to be documented with the construction certificate in accordance with conditions of this consent.
25. The stormwater system will drain into 2 separate retention tanks situated at the rear and front of the subject site. This water will be utilised for irrigation on gardens as well as water closets and laundry devices in the building.
26. An ecologist must visually identify and record (without marking) potential and actual Little Penguin nest sites immediately prior to commencement of excavation works and that these sites be rechecked immediately after completion of excavation to ensure that no nest sites have been affected and to clear any obstructions if they have been affected. Brief reports are to be submitted to Council and NPWS after each investigation.
27. Dilapidation surveys must be carried out on adjoining properties, in order to document the conditions prior to commencement of all works and to respond to any claims for damage arising from excavation and construction activities (copy to be forwarded to Council prior to commencement).
28. That the applicants' geotechnical consultant and the applicants' environmental consultant are to liaise and determine the best form of stabilization work that would provide adequate stability to the cliff face while being sensitive to the Little Penguins critical habitat. Details including engineering detail and aesthetic presentation must be submitted to Council for approval prior to the issue of the construction certificate.
29. Access to the shoreline will not be provided via the hospital portion of the subject site and persons will be discouraged to do so, by the erection of fences and signage.
30. Fishing and other recreation activities from the cliff face and shoreline on the subject site will be discouraged by the erection of fences and signage as per details are to be provided with the construction management plan accompanying the construction certificate.
31. Access to the cliff face portion of the subject site will be prohibited by the erection of a two-



metre high mesh fence for the construction phase.

32. Signs will be erected that identifies the cliff face area as a prohibited area; and
33. The residents of the proposed development at commencement of any site works are not to own cats or dogs besides from registered assistance animals.
34. Gardening and landscaping activities are not to alter any of the vegetation of the cliff-face, dump of garden refuse. The removal of any weeds and regeneration activities must be supervised by an appropriately qualified person in consultation with Council's Urban Services Group.
35. Prior to the commencement of any works, a Demolition Management Plan shall be submitted for Council approval. This Demolition Plan shall take into consideration the staging of the demolition works, including the installation of adequate scour and erosion control devices, appropriate runoff pollution control measures and the like during demolition to ensure that there will be minimal impact on the areas adjoining the site. It must also be demonstrated that the proposed demolition works will not cause any detrimental affect on the colony of fairy penguins currently living in North Harbour.
36. Further geotechnical investigations and reports are required following demolition of the existing building and structures. This report shall confirm the stability of the site and suitable construction methods at this stage of development. This Geotechnical Report must also verify the dimensions and depth of the sewer trench. This shall be submitted to Council for assessment and approved prior to issue of a Construction Certificate for building works.
37. A more detailed stormwater management plan must be prepared following demolition of the existing building and structures in accordance with Council's "Specification for On-site Stormwater Management 2003". This plan shall be submitted to Council for assessment and approved prior to issue of a Construction Certificate for building works. The stormwater management plan shall be prepared by a experienced Chartered Civil Engineer and shall comply with the following conditions:
  - The location of the on-site stormwater detention system shown on the Hydraulic Drawing 256-03 H3 - Revision A shall be revised to ensure that the construction of the system is within the building and does not cause instability of the cliff. The location of the on site stormwater detention system shall be certified by the Geotechnical Engineer to ensure that the construction does not cause any instability.
  - An onsite stormwater detention system to be provided within the property to limit the permissible site discharge to 1 in 5 year flow of "state of nature" conditions. An on site stormwater detention system is required in this site to minimise any effects of the stormwater disposal on the penguins living in that area.
  - The location of the stormwater discharge point shall be selected to minimise any effect on the penguin's habitat in the area. Preferably existing discharge point to be maintained.
  - Erosion, sediment and pollution control measures to be incorporated in the stormwater disposal system.
  - The system shall incorporate an energy dissipater within the property.

The Principal Certifying Authority shall ensure that the design complies with the above requirements prior to the issue of the Construction Certificate.

38. On completion of the drainage works the applicant is required to submit work as executed drawings of the on site stormwater detention system. The work as executed drawings shall be certified by a Chartered Professional Engineer and submitted to Council prior to the Occupation Certificate is issued.
39. A positive covenant and the restriction on the use of land shall be imposed over the area of

land affected by on site stormwater absorption/ detention system. The standard wording of the positive covenant shall be obtained from Council's "Specification for on-site Stormwater Management 2003" (Appendix A). The positive covenant shall be imposed prior to the release of the Trust Fund Deposit.

40. The construction of a vehicular footpath crossing and kerb layback is required. The design and construction shall be in accordance with Council's "Specification for Construction of Vehicular Crossings". The work shall be done with plain concrete. It is the responsibility of the owner, developer and builder that they understand the above specification and strictly comply with the specification. The work shall be inspected and approved by Council officers. All works shall be carried out prior to issue of the Occupation Certificate.
41. The driveway with gradient 1:5 shall be finished with a grooved surface or similar to minimize skidding of vehicles.
42. The detailed design of the development and proposed construction methods shall be prepared in consultation with the Geotechnical Engineer. The construction shall be closely supervised the Geotechnical Engineer.
43. The existing surplus vehicular crossing and/or kerb layback shall be removed and the kerb and nature strip reinstated **prior to issue of the Occupation Certificate.** (DA11)
44. A long section of the driveway shall be submitted with the Construction Certificate Application. The long section is to be drawn at a scale of 1:20 and shall include Relative Levels (RL) of the road centreline, kerb, road reserve, pavement within property and garage floor. The RLs shall include the existing levels and the designed levels. (DA13)
45. Pursuant to Section 97 of the Local Government Act, 1993, Council requires, **prior to issue of the Construction Certificate, or commencement of any excavation and demolition works**, payment of a Trust Fund Deposit of \$25,000. The Deposit is required as security of compliance with Conditions of Consent, and as security against damage to Council property during works on the site.

**Note:** Should Council property adjoining the site be defective eg, cracked footpath, broken kerb etc., this shall be reported in writing to Council, **at least 7 days prior to the commencement of any work on site.**

46. No obstruction shall be caused to pedestrian use of Council's footpath or vehicular use of any public roadway during construction.
47. Any adjustment to the public utility service is to be carried out in compliance with their standards and the cost is to be borne by the applicant.
48. Details of the builder's name and licence number contracted to undertake the works shall be provided to Council **prior to issue of the Construction Certificate.**
49. Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.
50. Retaining walls being constructed in conjunction with excavations with such work being in accordance with structural engineer's details. Certification of compliance with the structural detail during construction shall be submitted to the Principal Certifying Authority.
51. A sign must be erected on the subject site in a prominent position stating that unauthorised entry is prohibited and giving details of the name of the builder or the person responsible for

the site and 24 hour contact details. The sign is to have dimensions of approximately 500mm x 400mm.

Note: The sign is not required if the building on the site is to remain occupied during the course of the building works.

52. All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans with certification being submitted to the Principal Certifying Authority during construction from a registered surveyor certifying ground and finished ridge levels.
53. 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 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 that you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.
54. A Certificate of Adequacy signed by a practising Structural Engineer is to be submitted to the Principal Certifying Authority in respect of the load carrying capabilities of the existing structure to support the proposed **additions prior to the issue of the Construction Certificate.**
55. Four (4) certified copies of the Structural Engineer's details in respect of all reinforced concrete, structural steel support construction and any proposed retaining walls shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**
56. Where any excavation extends below the level of the base of the footing of a building on an adjoining allotment of land, the person causing the excavation shall support the neighbouring building in accordance with the requirements of the Building Code of Australia.
57. The implementation of adequate care during building / construction / excavation / demolition to ensure that no damage is caused to any adjoining properties.
58. Prior to excavation applicants should contact the various utility providers to determine the position of any underground services.
59. 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.
60. A dilapidation report in regard to adjoining properties and Council land is to be submitted to Council with the Trust Fund **Deposit prior to the issue of the Construction Certificate.**
61. Four (4) Architectural/Services Specifications are to be submitted with the Construction Certificate application/**prior to the issue of the Construction Certificate.**
62. The visitor car spaces shall be accessible at all times and a sign post shall be erected at the vehicular entry point(s) of the development indicating the location of the spaces.
63. A system of onsite stormwater detention shall be provided within the property in accordance with Council's specification. Details shall be submitted with the Construction Certificate Application and be approved **prior to the issue of the Construction Certificate.**
64. The proposed construction of a substantial stormwater mitigation tank (not shown on

structural drawings or cross sections) must be located to minimise the potential to exacerbate the instability of the cliff upon excavation. Details shall be submitted with the Construction Certificate Application and be approved **prior to the issue of the Construction Certificate.**

65. All demolition is to be carried out in accordance with AS2601-1991.
66. Asbestos cement sheeting must be removed in accordance with the requirements of the WorkCover Authority.
67. A Fire Safety Schedule specifying the fire safety measures (both current and proposed) that should be implemented in the building premises shall be submitted with the Construction Certificate application, in accordance with Part 9 Clause 168 of the Environmental Planning and Assessment Regulation 2000.

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

68. The building being erected in Type A construction for a Class 2 & 7 building in accordance with the Fire Resistance Provisions of the Building Code of Australia.
69. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
70. Landscaping is to be carried out in accordance with the approved Landscape Plan submitted in conjunction with the Development Application. Evidence of an agreement for the maintenance of all plants for a period of 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.**
71. Trees along the boundary to Peace Park are to remain undisturbed and protected from damage.
72. All healthy trees and shrubs identified for retention on the plan must be retained and suitably marked before any development starts and be suitably protected from damage during the construction process;
73. All disturbed surfaces on the land resulting from the building works authorised by this approval shall be revegetated and stabilised so as to prevent any erosion either on or adjacent to the land.
74. The felling, lopping, topping, ringbarking, willful destruction or removal of any tree or trees unless in conformity with this approval or subsequent approval is prohibited.
75. No tree other than on land identified for the construction of buildings and works as shown on the building plan shall be felled, lopped, topped, ringbarked or otherwise wilfully destroyed or removed without the approval of Council.
76. The trees to be retained are to be protected from trenching or excavation works or other construction works during the building construction stage. A security bond for \$30,000 is required to ensure that the trees are protected during the construction stage. The security bond may be in the form of a bank guarantee which must be lodged with Council **prior to issue of the Construction Certificate.**
77. All trees on the site clear of the building are to be retained and those trees within 7.5m of the building are to be provided with a tree guard and a notice on each guard reading: "This tree is the subject of a Tree Preservation Order by Manly Council". This notice is to be in position

prior to any work being commenced on the site.

78. Landscaping being provided in accordance with the approved Landscaping Plan and maintained in accordance with that plan at all times.
79. Trees and shrubs liable to damage are to be protected with suitable temporary enclosures for the duration of the works. These enclosures shall only be removed when directed by the Principal Certifying Authority.
80. The enclosures are to be constructed out of F62 reinforcing mesh 1800mm high wired to 2400mm long star pickets, driven 600mm into the ground, spaced 1800mm apart at a minimum distance of 1000mm from the tree trunk.
81. Precautions shall be taken when working near trees to be retained including the following:
  - o do not store harmful or bulk materials or spoil under or near trees
  - o prevent damage to bark and root system
  - o do not use mechanical methods to excavate within root zones
  - o do not add or remove topsoil from under the drip line
  - o do not compact ground under the drip line.
82. **Prior to the commencement of any works** on the land including demolition and site preparation, provision of silt control fences shall be provided. A Sediment/Erosion Control detail shall be submitted to the Certifying Authority **prior to the issue of the Construction Certificate.**
83. Prior to the sale, transfer, assignment or other disposal of or leasing or parting with provision of any part of the land subject to this approval, a copy of the approval shall be given to the purchaser, transferee, assignee, leasee, occupier or other person of that part of the land.
84. A Construction Certificate Application is required to be submitted to and issued by the Principal Certifying Authority **prior to any building works being carried out on site.**
85. An Occupation Certificate is to be issued by the Principal Certifying Authority **prior to occupation of the development.**
86. 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.
87. All site waters during excavation and construction shall be contained on site in an approved manner to avoid pollutants entering into the Harbour or Council's stormwater drainage system.
88. In the event that de-watering of the site becomes necessary, the discharge of waters to Council's Stormwater System is to be to the satisfaction of the Principal Certifying Authority and the Environmental Protection Authority and shall be in accordance with the Protection of the Environment Operations Act 1997.
89. The capacity and effectiveness of erosion and sediment control devices must be maintained to Council's satisfaction at all times.
90. Building operations such as brickcutting, 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.
91. All disturbed areas shall be stabilised against erosion to Council's satisfaction within 14 days

of completion, and prior to removal of sediment controls.

92. The applicant and/or builder must prior to the commencement of work, install at the periphery of the site, measures to control sedimentation and the possible erosion of the land. The measures must include:-
- siltation fencing;
  - protection of the public stormwater system; and
  - site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.

93. Building or construction work must be confined to the hours between 7.00am to 6.00pm, Monday to Friday and 7.00am to 1.00pm, Saturday, with a total exclusion of such work on Public Holidays and Sundays. Non-offensive works where power operated plant is not used and including setting out, surveying, plumbing, electrical installation, tiling, internal timber or fibrous plaster fixing, glazing, cleaning down brickwork, magnesite flooring, painting, building or site cleaning by hand shovel and site landscaping, is permitted between the hours of 1.00pm to 4.00pm Saturdays.

Note: That the Protection of the Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.

94. This approval shall expire if the development hereby permitted is not commenced within 2 years of the date hereof or any extension of such period which Council may allow in writing on an application made before such an expiry.
95. In accordance with the Roads Act 1993, written consent from Council shall be obtained and shall 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.
96. An archival quality photographic record is to be made of the existing site and buildings (internal and external) in accordance with the relevant guidelines of the NSW Heritage Office prior to demolition and submitted to Principal Certifying Authority/ Council **prior to issue of the construction certificate**. Photographs during the construction and after construction are also to be taken, included in the record and a complete record submitted to Council on completion of the works. The archive material is to include a copy of the development application plans, SHI, plus measured drawings and elevations of the heritage item (A4 or A3 size). The photographs are to be in black and white and colour and referenced to the plans of the existing. The photographic record and the black and white negatives are to be submitted in an A4 format and when received will be lodged with the Manly Local Studies Library. Two copies of the record are required one of which is to include the black and white negatives.
97. A heritage consultant shall be engaged to have a 'watching brief' during the demolition and construction. In particular the heritage consultant must supervise any demolition in the vicinity of significant heritage fabric and the removal of any fabric for reuse including original facades and openings, internal ceiling, window and cornice features. The demolition of part of the original rooms at the west corner (Addison Road facing) at ground level and behind the existing garage, are to be particularly supervised to ensure compliance with conditions of the approval. In addition, the uncovering of evidence of functions associated with earlier uses found or disturbed are to be professionally recorded and assessed.
98. Written confirmation of the engagement of a heritage conservation architect and the architect's name and their brief (with a scope consistent with requirements of this consent) shall be submitted to the Principal Certifying Authority/ Council **prior to issue of the Construction Certificate**.
99. If during the course of excavation relics are found, works are to stop and an excavation

permit must be obtained from the NSW Heritage Council, in accordance with the relics provisions of the Heritage Act, 1977. A copy of this permit and archaeologists report is to be submitted to Council.

Investigate retention of the cupboard and associated joinery including architraves and shelving located at the existing nurse's station on the ground floor. Details of this investigation to be provided to the Principal Certifying Authority/Council **prior to issue of the construction certificate**. If this cannot be achieved the cupboard should be carefully dismantled and rebuilt to be retained in the entry area of the proposed new apartments. This will allow it to form part of the interpretation display of the original building. The cupboard should be recorded in accordance with the NSW Heritage Office Guidelines.

100. The entire early roof design including the sloping slate roof and flat membrane roofs are to be retained.
101. The existing and new pitched roofs of Mandalay are to be clad in Welsh slate with terracotta ridging to match the original. The slate roof to the front of the original building is to be retained and conserved.
102. Investigate the retention of the original windows to the rear of the existing building in the existing ward 7, ward 14 and ward 17 in their original position. Details of this investigation to be provided to Council prior to issue of the construction certificate. If this cannot be achieved the windows should be carefully removed and repaired where necessary to be reused in another location in the building. Details to be provided to Principal Certifying Authority/ Council **prior to issue of the construction certificate**. The windows are to be recorded in accordance with the NSW Heritage Office Guidelines.
103. The early timber framed windows, and door in the basement are to be retained for reuse in their current position or salvaged for use elsewhere on the site. The door may be able to be used in the garbage area and the red colouring of the concrete be used in the basement area as a form of interpretation of the original buildings features. The windows, door and red coloured concrete are to be recorded in accordance with the NSW Heritage Office Guidelines. Details of the above to be submitted to Principal Certifying Authority/ Council **prior to issue of the construction certificate**.
104. Arts and Craft features of the Addison Road façade are to be retained including the timber framed margin windows, stained glass upper floor windows with Art Nouveau detailing and gable roofs, windows, timber joinery, brick external walls and sandstone bases of bay windows. The entry terrace is to be reopened similar to the original layout.
105. The return windows on the first floor of the Addison road facade are not to be bricked up. They are to be retained in their present location and be conserved. Amended details to be submitted to Principal Certifying Authority/ Council **prior to issue of the construction certificate**
106. The garage façade structure at the northern corner of the site along Addison Road is to be retained where appropriate and restored and have a tilt panel mechanism installed. Details are to be provided to the satisfaction of Council prior to the issue of construction certificate.
107. The reconstruction of the missing garage (western corner) should go as far in detail as reproducing the garage doors to achieve proper symmetry with the surviving garage. The proposed design and positioning of the entry areas of the west corner structure are to be subject of further detailed design investigation into the façade arrangement to be sympathetic to the original building. In particular, the south-western garage on the Addison Road frontage is to have a matching garage door to the one on the north-eastern boundary to retain the symmetry of the front elevation and based on models contemporary to the original building. Notwithstanding BCA requirements the positioning of the openings and their proportions are

to achieve a more sympathetic and symmetrical arrangement. In this regard the fire access door can be relocated to the northern elevation of the stairs and the single width garage door can act as the garbage opening as well as fire access in an emergency with a motorised opening mechanism. Details to be submitted to Principal Certifying Authority/ Council **prior to issue of the construction certificate.**

108. The existing front brick garden wall, wrought iron lanterns on the brick wall flanking the main entrance and the bird bath in the front yard are all significant heritage features of the site that must be retained with the development. Their protection during development works must be evidenced in the Construction Certificate.

109. All original windows in the side and street elevations should be kept and any missing windows should be reconstructed in sympathy with the original symmetry.

110. The proposed new canopy above the front door is to match the original exactly in materials and finishes.

All original windows in original building are to be hung in the traditional manner (not awning hung).

111. The first structural bay of masonry behind the original street elevation is to be retained to avoid risk of the facade being lost altogether during construction.

112. The significant main entry alcove original fabric is to be reused on site where possible. The architectural detailing of the new stairway and entrance foyer is to match the original fabric in terms of architectural style of the original period including windows, panelling and timber detail. The new stair is also to be of the same style as the original existing stair. Details of which to be submitted to the Principal Certifying Authority/ Council **prior to issue of the construction certificate.**

113. As much original fabric from the original west corner (Addison Road facing) room on the ground and first floors and those rooms adjacent are to be retained including original internal features including cornices and ceiling. Any fabric that cannot be retained in situ should be salvaged and/or moulds taken for use throughout the site under supervision of the applicants' Heritage Architect.

114. As much original fabric from the original room behind the existing garage, and the associated features, including the original window and ceiling features of the room are to be retained. Any fabric that cannot be retained in situ should be salvaged and moulds taken of the ceilings for re-use in the same or similar room location on-site under supervision of the applicants' Heritage Architect.

115. The original colour scheme (internal and external) shall be investigated, documented and a copy of the results provided to Council. An external colour and finishes schedule shall be submitted to Principal Certifying Authority/ Council for approval **prior to issue of the Construction Certificate.** Any new paint colour scheme is to be the original colour scheme or sympathetic to the architectural style of the building. Painting is only to occur in previously painted areas and no painting of stone work is permitted. Details of any new colour scheme are to be submitted to Council for approval.

116. All proposed new material should be selected to ensure the heritage significance of the item is maintained. The design details and finishes of the proposed new works are to be respectful and sympathetic to the heritage significance of the item, whilst being identifiable as new.

117. Retain the important significant fabric in the Addison Road frontage including the face brick garden wall, the wrought iron lanterns mounted on the brick wall flanking the main entrance,



the bird bath and the entire early roof design including the sloping slate roof and flat membrane roofs.

118. Any significant heritage fabric that cannot be retained in situ is to be salvaged for use throughout the site. In the case of cornices, ceiling features and the like found in rooms identified as having high significance in the conservation plan prepared by Tropman and Tropman, mouldings are to be taken and used throughout the site. Details of the appropriate methodology and management of these conservation measures is to be provided by the applicants Heritage Architect to the Principal Certifying Authority/ Council **prior to the issue of the construction certificate.**
119. The structural stability of the original building is to be maintained at all times during demolition, test drilling, excavation and construction stages of the development.
120. The applicant is to provide a certificate of structural adequacy with the Construction Certificate. The applicant's heritage architect is to review the certificate of structural adequacy with a view to the protection of remaining heritage fabric.
121. The works to which these general terms of approval apply are not to commence until such time as the NSW Maritime has issued a Part 3A Permit under the Rivers and Foreshores Improvement Act 1948.

The proposed construction works are to be carried out so that:

122. No materials are eroded, or likely to be eroded, are deposited, or likely to be deposited, on the bed or shore or into the waters of Little Manly Cove; and
123. No materials are likely to be carried by natural forces to the bed, shore or waters of Little Manly Cove.
124. Any material that does enter Little Manly Cove must be removed immediately.
125. In relation to the above, a plan to manage erosion, sediment and other pollutants at the site is to be prepared by a suitable qualified person(s). A suitable plan is to be submitted to NSW Maritime prior to a Part 3A Permit being issued.
126. Best practice methods shall be adopted for the on-site control of runoff, sediment and other pollutants during, and post, construction. Methods shall be in accordance with the relevant specifications and standards contained in the manual Managing Urban Stormwater - Soils & Construction issued by the NSW Department of Housing in 1998 and any other relevant Council requirements.
127. The erosion, sediment and pollution controls shall be installed and stabilised before commencement of site works (this does not include the works associated with the construction of the appropriate controls).
128. The proposed system for erosion, sediment and pollution control is to be effectively maintained at or above design capacity for the duration of the works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.
129. Any material that is to be stockpiled on site is to be covered and stabilised to prevent erosion or dispersal of the material.
130. The rocky cliff on the southern side of the site and the inter-tidal area is to be fully protected for the duration of the works. This includes preventing the use of any machinery, or storage of construction materials, supplies, or waste receptacles, in the area.

131. Native trees that are present on the site and adjoining land are to be retained and fully protected for the duration of the works (unless authorised for removal). In particular, works are to be undertaken with regard to protection of the root zone of trees, including preventing stockpiling of materials, parking of equipment and machinery and alteration of soil levels within the root zone.
132. Any foreshore landscaping is to be comprised of locally indigenous species and plantings above the cliff top line in the area to the South East of the site to not exceed 4m at mature height which represent the original plant communities that would have been found along the shoreline in the vicinity of the subject land. Thought should be given to presenting species which provide a buffer between the development and the established critical habitat. Suitably prepared plans are to be provided to NSW Maritime prior to the issuing of a Part 3A permit.
133. Detailed information on the location and design of the stormwater collection and treatment system is to be provided to NSW Maritime prior to a Part 3A permit being issued.
134. The discovery of archaeological remains may require localized stop work while the remains are recorded by an archaeologist. Contractors on site are required under heritage legislation to report archaeological remains. Excavation works should comply with relevant legislation especially the 'relics' provisions of the NSW Heritage Act." In this regard the applicant must be satisfied of any requirement to obtain an excavation permit under s 140 of the Act.

The NSW National Parks and Wildlife Act 1974 (§ 90) states:

- (1) *A person who, without first obtaining the consent of the Director-General, knowingly destroys, defaces or damages, or knowingly causes or permits the destruction or defacement of or damage to, an Aboriginal object or Aboriginal place is guilty of an offence against this Act.*

§21U of the Aboriginal and Torres Strait Islander Heritage Protection Act states:

- (1) *A person is guilty of an offence if:*
  - (a) *the person:*
    - (i) *does an act; and*
    - (ii) *the act causes damage to, the defacing of, or interference with, an Aboriginal object or an Aboriginal place; or*
  - (b) *the person does an act likely to endanger an Aboriginal object or Aboriginal place.*

*Penalty:*

- (a) *if the person is a natural person—\$10,000 or imprisonment for 5 years, or both; or*
- (b) *if the person is a body corporate—\$50,000.*

Unless an excavation permit has been issued by the Minister, it is an offence to disturb or excavate land knowing that archaeological evidence of either Indigenous or non-Indigenous origin may be present.

The Heritage Act 1977 (New South Wales) states in §139 that:

- (1) *A person must not disturb or excavate any land knowing or have reasonable cause to suspect that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed unless the disturbance or excavation is carried out in accordance with an excavation permit.*

(2) *A person must not disturb or excavate any land on which the person has discovered or exposed a relic except in accordance with an excavation permit.*

Consent for a development, issued by the Council, does not provide an applicant with an excavation permit, nor a permit to destroy, damage or remove items of archaeological significance originating from either Indigenous or non-Indigenous cultures. This permit must be applied for independently through the Heritage Council of New South Wales.

135. If any cultural material or relics are unearthed during any stages of development, then all work should cease promptly and the metropolitan LALC and NSW NPWS are to be notified as soon as possible.
136. This approval shall expire if the development hereby permitted is not commenced within 2 years of the date hereof or any extension of such period which Council may allow in writing on an application made before such an expiry.
137. Prior to the issuing of the Construction Certificate, the payment of Developer Contribution under Section 94 of the *Environmental Planning and Assessment Act 1979* in accordance with Manly Section 94 Contributions Plan as applicable at the time of payment.
138. That the imposition of a bond in the form of a Bank Guarantee to the suggested amount of \$500,000 for breach of conditions relating to preservation of the cliff face and equipment being operated in short burst to alleviate amplification of vibrations.

**AMENDMENT: (Cant/Macdonald)**

That pursuant to Section 80(3) ("**deferred commencement**") Environmental Planning and Assessment Act 1979, Development Application No. 339/04 for alterations and additions to the existing building and conversion to five (5) residential units with basement car-parking at 2 Addison Road, Manly (Mandalay Private Hospital) be approved but such approval shall not operate until the applicant has satisfied the following in principal conditions:-

- A. Consistent with environmental precautionary principles for the protection of sensitive natural resources, the applicant shall further setback the extent of the basement excavation from the rear boundary and cliff line by at least another 1.50 metres.
- B. The Applicant shall undertake further geotechnical assessments of the proposed excavation, as modified by Condition A, to ensure that any excavation proposal including the methods to be used are in all respects, capable of satisfying environmental precautionary principles for the protection of sensitive natural resources. A Statement jointly prepared by the Geotechnical Consultant and the project Ecologist, certifying the proposed excavation and the methods proposed to be used are in compliance with environmental precautionary principles for the protection of sensitive natural resources shall be submitted to Council, including any requirements for the submission of a revised *Species Impact Statement*.
- C. Plans as modified by Condition A and Condition B must be submitted to Council for prior assessment and approval. Such plans must demonstrate that the proposed car park layout is capable of complying with the minimum requirements under Council's DCP for the provision of onsite parking and manoeuvring area requirements of the relevant Australian Standards.

Amended Plans and Report under A, B and C above are to be submitted within a period of 6 months pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979. The consent will, when activated operate for a period of two (2) years.

Development Application conditions of consent upon compliance with the above matters are as

follows:

1. Generally in accordance with Plans drawings DA00 – DA15 dated July 2004 and received by Council 6 July, 2004, as amended by deferred commencement conditions.
2. Compliance with recommended conditions of the Species Impact Statement dated 15 June 2004 and the submitted Geotechnical reports prepared by Jeffery and Katauskas Pty Ltd.
3. Compliance with the Environmental Management Plan (preliminary) prepared by Tesrol Building Group received by Council on 6 July 2004 and as required to be modified by conditions of this consent. A final Environmental Management Plan incorporating all required amendments and additions is to be submitted with the construction certificate to the satisfaction of the Principal Certifying Authority
4. Heavy excavation works are not to be undertaken during the breeding season (Breeding season - 1 July to 28 Feb). If penguins arrive in the study area whilst works are being undertaken, all works are to cease and the Threatened Species Unit, Central Directorate of DEC is to be contacted for advise.
5. The applicant is to employ a qualified ecologist and geologist to oversee the proposed works. The function of the ecologist and geologist is to certify the satisfactory implementation of consent conditions. The responsibility of the ecologist and geologist include:
  - Inspection of burrows on site for presence/absence of penguins prior to works commencing
  - Advise the Site Manager/Foreman of the sensitivity of the site, habitat features and consent conditions
  - Educate all contract staff as to the presence of the penguins and the sensitivity of their habitat
  - Ensure works cease if penguins arrive prior to the completion of works and to notify DEC
  - Supervise the erection of any fences on the site such as catch fences and retaining walls, for security and for erosion/sedimentation to ensure minimal impact on the penguins
  - Ensure that work is carried out in a manner that does not interfere or result in the collapse of penguin burrows or habitat
  - Ensure the protection of vegetation on site and re-vegetation with locally indigenous species
  - Ensure the protection of access and egress routes to burrows
6. Following completion of the works, burrows are to be inspected by a qualified ecologist and if found to be damaged, they are to be restored by a suitable qualified person to a similar condition/dimension as prior to construction. Hence the ecologist will need to thoroughly record the dimensions, conditions etc of the burrows and surrounding habitat prior to construction.
7. Any retaining walls / catch fences are to be constructed in such a way as to ensure there is no impact on penguin habitat and under the supervision of a qualified ecologist
8. All artificial lighting shall be provided in accordance with the requirements of the Building Code of Australia. Any lighting used during construction and after completion is to be directed away from penguin burrows and the foreshore area where penguins come ashore.
9. No works are to be undertaken below the cliff line.
10. Habitat below the cliff line is not to be removed or modified in conjunction with the

development in its future occupation.

11. Contractors are to be given a copy of the Flora and Fauna Impact Statement and briefed on penguins, critical habitat, access restrictions and effects of disturbance on penguins in their habitat.
12. All construction access to the property will be via Addison Road. No access during construction will be via Little Manly Cove.
13. Hydraulic hammers and other heavy excavation equipment causing vibration must not be used.
14. Equipment is to be operated in short bursts only, to avoid amplification of vibration.
15. No jack hammering on the site, sandstone is to be removed using saws.
16. No work classified here as *'heavy construction work'* including excavation will take place during the breeding season for the Little Penguin (July to February).
17. No night work to be conducted on site (outside scheduled daylight hours).
18. All excavation must be either retained by an engineered retaining structure or battered to stable angles.
19. The use of a wire mesh catch fence on the cliff face 2m high to prevent any dislodged boulders or building debris falling down the cliff face.
20. The proposed excavation work shall be inspected by an experienced Engineering Geologist or Geotechnical Engineer and the stability of the cliff face has to be continuously and regularly monitored. The applicant is to do all the work recommended by the Engineering Geologist or Geotechnical Engineer to ensure that the stability of the cliff face is maintained.
21. Outside lighting is to be minimized especially in areas adjacent to the foreshore.
22. Stormwater management systems should be implemented and maintained to ensure no additional stormwater flow over the cliff.
23. Implementation, regular inspection and maintenance of erosion and sediment control measures such as sediment control barrier fences.
24. Detailed guidelines for the implementation of the drainage concepts; and Installation of stormwater pump out pits and, drainage inlet filters to be documented with the construction certificate in accordance with conditions of this consent.
25. The stormwater system will drain into 2 separate retention tanks situated at the rear and front of the subject site. This water will be utilised for irrigation on gardens as well as water closets and laundry devices in the building.
26. An ecologist must visually identify and record (without marking) potential and actual Little Penguin nest sites immediately prior to commencement of excavation works and that these sites be rechecked immediately after completion of excavation to ensure that no nest sites have been affected and to clear any obstructions if they have been affected. Brief reports are to be submitted to Council and NPWS after each investigation.
27. Dilapidation surveys must be carried out on adjoining properties, in order to document the conditions prior to commencement of all works and to respond to any claims for damage arising from excavation and construction activities (copy to be forwarded to Council prior to

commencement).

28. That the applicants' geotechnical consultant and the applicants' environmental consultant are to liaise and determine the best form of stabilization work that would provide adequate stability to the cliff face while being sensitive to the Little Penguins critical habitat. Details including engineering detail and aesthetic presentation must be submitted to Council for approval prior to the issue of the construction certificate.
29. Access to the shoreline will not be provided via the hospital portion of the subject site and persons will be discouraged to do so, by the erection of fences and signage.
30. Fishing and other recreation activities from the cliff face and shoreline on the subject site will be discouraged by the erection of fences and signage as per details are to be provided with the construction management plan accompanying the construction certificate.
31. Access to the cliff face portion of the subject site will be prohibited by the erection of a two-metre high mesh fence for the construction phase.
32. Signs will be erected that identifies the cliff face area as a prohibited area; and
33. The residents of the proposed development at commencement of any site works are not to own cats or dogs besides from registered assistance animals.
34. Gardening and landscaping activities are not to alter any of the vegetation of the cliff-face, dump of garden refuse. The removal of any weeds and regeneration activities must be supervised by an appropriately qualified person in consultation with Council's Urban Services Group.
35. Prior to the commencement of any works, a Demolition Management Plan shall be submitted for Council approval. This Demolition Plan shall take into consideration the staging of the demolition works, including the installation of adequate scour and erosion control devices, appropriate runoff pollution control measures and the like during demolition to ensure that there will be minimal impact on the areas adjoining the site. It must also be demonstrated that the proposed demolition works will not cause any detrimental affect on the colony of fairy penguins currently living in North Harbour.
36. Further geotechnical investigations and reports are required following demolition of the existing building and structures. This report shall confirm the stability of the site and suitable construction methods at this stage of development. This Geotechnical Report must also verify the dimensions and depth of the sewer trench. This shall be submitted to Council for assessment and approved prior to issue of a Construction Certificate for building works.
37. A more detailed stormwater management plan must be prepared following demolition of the existing building and structures in accordance with Council's "Specification for On-site Stormwater Management 2003". This plan shall be submitted to Council for assessment and approved prior to issue of a Construction Certificate for building works. The stormwater management plan shall be prepared by a experienced Chartered Civil Engineer and shall comply with the following conditions:
  - The location of the on-site stormwater detention system shown on the Hydraulic Drawing 256-03 H3 - Revision A shall be revised to ensure that the construction of the system is within the building and does not cause instability of the cliff. The location of the on site stormwater detention system shall be certified by the Geotechnical Engineer to ensure that the construction does not cause any instability.
  - An onsite stormwater detention system to be provided within the property to limit the permissible site discharge to 1 in 5 year flow of "state of nature" conditions. An on site stormwater detention system is required in this site to minimise any effects of the

stormwater disposal on the penguins living in that area.

- The location of the stormwater discharge point shall be selected to minimise any effect on the penguin's habitat in the area. Preferably existing discharge point to be maintained.
- Erosion, sediment and pollution control measures to be incorporated in the stormwater disposal system.
- The system shall incorporate an energy dissipater within the property.

The Principal Certifying Authority shall ensure that the design complies with the above requirements prior to the issue of the Construction Certificate.

38. On completion of the drainage works the applicant is required to submit work as executed drawings of the on site stormwater detention system. The work as executed drawings shall be certified by a Chartered Professional Engineer and submitted to Council prior to the Occupation Certificate is issued.
39. A positive covenant and the restriction on the use of land shall be imposed over the area of land affected by on site stormwater absorption/ detention system. The standard wording of the positive covenant shall be obtained from Council's "Specification for on-site Stormwater Management 2003" (Appendix A). The positive covenant shall be imposed prior to the release of the Trust Fund Deposit.
40. The construction of a vehicular footpath crossing and kerb layback is required. The design and construction shall be in accordance with Council's "Specification for Construction of Vehicular Crossings". The work shall be done with plain concrete. It is the responsibility of the owner, developer and builder that they understand the above specification and strictly comply with the specification. The work shall be inspected and approved by Council officers. All works shall be carried out prior to issue of the Occupation Certificate.
41. The driveway with gradient 1:5 shall be finished with a grooved surface or similar to minimize skidding of vehicles.
42. The detailed design of the development and proposed construction methods shall be prepared in consultation with the Geotechnical Engineer. The construction shall be closely supervised the Geotechnical Engineer.
43. The existing surplus vehicular crossing and/or kerb layback shall be removed and the kerb and nature strip reinstated **prior to issue of the Occupation Certificate.** (DA11)
44. A long section of the driveway shall be submitted with the Construction Certificate Application. The long section is to be drawn at a scale of 1:20 and shall include Relative Levels (RL) of the road centreline, kerb, road reserve, pavement within property and garage floor. The RLs shall include the existing levels and the designed levels. (DA13)
45. Pursuant to Section 97 of the Local Government Act, 1993, Council requires, **prior to issue of the Construction Certificate, or commencement of any excavation and demolition works**, payment of a Trust Fund Deposit of \$25,000. The Deposit is required as security of compliance with Conditions of Consent, and as security against damage to Council property during works on the site.  
  
**Note:** Should Council property adjoining the site be defective eg, cracked footpath, broken kerb etc., this shall be reported in writing to Council, **at least 7 days prior to the commencement of any work on site.**
46. No obstruction shall be caused to pedestrian use of Council's footpath or vehicular use of any public roadway during construction.

47. Any adjustment to the public utility service is to be carried out in compliance with their standards and the cost is to be borne by the applicant.
48. Details of the builder's name and licence number contracted to undertake the works shall be provided to Council **prior to issue of the Construction Certificate.**
49. Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.
50. Retaining walls being constructed in conjunction with excavations with such work being in accordance with structural engineer's details. Certification of compliance with the structural detail during construction shall be submitted to the Principal Certifying Authority.
51. A sign must be erected on the subject site in a prominent position stating that unauthorised entry is prohibited and giving details of the name of the builder or the person responsible for the site and 24 hour contact details. The sign is to have dimensions of approximately 500mm x 400mm.

Note: The sign is not required if the building on the site is to remain occupied during the course of the building works.

52. All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans with certification being submitted to the Principal Certifying Authority during construction from a registered surveyor certifying ground and finished ridge levels.
53. 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 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 that you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.
54. A Certificate of Adequacy signed by a practising Structural Engineer is to be submitted to the Principal Certifying Authority in respect of the load carrying capabilities of the existing structure to support the proposed **additions prior to the issue of the Construction Certificate.**
55. Four (4) certified copies of the Structural Engineer's details in respect of all reinforced concrete, structural steel support construction and any proposed retaining walls shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**
56. Where any excavation extends below the level of the base of the footing of a building on an adjoining allotment of land, the person causing the excavation shall support the neighbouring building in accordance with the requirements of the Building Code of Australia.
57. The implementation of adequate care during building / construction / excavation / demolition to ensure that no damage is caused to any adjoining properties.
58. Prior to excavation applicants should contact the various utility providers to determine the position of any underground services.
59. 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.

60. A dilapidation report in regard to adjoining properties and Council land is to be submitted to Council with the Trust Fund **Deposit prior to the issue of the Construction Certificate.**
61. Four (4) Architectural/Services Specifications are to be submitted with the Construction Certificate application/**prior to the issue of the Construction Certificate.**
62. The visitor car spaces shall be accessible at all times and a sign post shall be erected at the vehicular entry point(s) of the development indicating the location of the spaces.
63. A system of onsite stormwater detention shall be provided within the property in accordance with Council's specification. Details shall be submitted with the Construction Certificate Application and be approved **prior to the issue of the Construction Certificate.**
64. The proposed construction of a substantial stormwater mitigation tank (not shown on structural drawings or cross sections) must be located to minimise the potential to exacerbate the instability of the cliff upon excavation. Details shall be submitted with the Construction Certificate Application and be approved **prior to the issue of the Construction Certificate.**
65. All demolition is to be carried out in accordance with AS2601-1991.
66. Asbestos cement sheeting must be removed in accordance with the requirements of the WorkCover Authority.
67. A Fire Safety Schedule specifying the fire safety measures (both current and proposed) that should be implemented in the building premises shall be submitted with the Construction Certificate application, in accordance with Part 9 Clause 168 of the Environmental Planning and Assessment Regulation 2000.

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

68. The building being erected in Type A construction for a Class 2 & 7 building in accordance with the Fire Resistance Provisions of the Building Code of Australia.
69. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
70. Landscaping is to be carried out in accordance with the approved Landscape Plan submitted in conjunction with the Development Application. Evidence of an agreement for the maintenance of all plants for a period of 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.**
71. Trees along the boundary to Peace Park are to remain undisturbed and protected from damage.
72. All healthy trees and shrubs identified for retention on the plan must be retained and suitably marked before any development starts and be suitably protected from damage during the construction process;
73. All disturbed surfaces on the land resulting from the building works authorised by this approval shall be revegetated and stabilised so as to prevent any erosion either on or adjacent to the land.
74. The felling, lopping, topping, ringbarking, willful destruction or removal of any tree or trees

unless in conformity with this approval or subsequent approval is prohibited.

75. No tree other than on land identified for the construction of buildings and works as shown on the building plan shall be felled, lopped, topped, ringbarked or otherwise wilfully destroyed or removed without the approval of Council.
76. The trees to be retained are to be protected from trenching or excavation works or other construction works during the building construction stage. A security bond for \$30,000 is required to ensure that the trees are protected during the construction stage. The security bond may be in the form of a bank guarantee which must be lodged with Council **prior to issue of the Construction Certificate.**
77. All trees on the site clear of the building are to be retained and those trees within 7.5m of the building are to be provided with a tree guard and a notice on each guard reading: "This tree is the subject of a Tree Preservation Order by Manly Council". This notice is to be in position prior to any work being commenced on the site.
78. Landscaping being provided in accordance with the approved Landscaping Plan and maintained in accordance with that plan at all times.
79. Trees and shrubs liable to damage are to be protected with suitable temporary enclosures for the duration of the works. These enclosures shall only be removed when directed by the Principal Certifying Authority.
80. The enclosures are to be constructed out of F62 reinforcing mesh 1800mm high wired to 2400mm long star pickets, driven 600mm into the ground, spaced 1800mm apart at a minimum distance of 1000mm from the tree trunk.
81. Precautions shall be taken when working near trees to be retained including the following:
  - o do not store harmful or bulk materials or spoil under or near trees
  - o prevent damage to bark and root system
  - o do not use mechanical methods to excavate within root zones
  - o do not add or remove topsoil from under the drip line
  - o do not compact ground under the drip line.
82. **Prior to the commencement of any works** on the land including demolition and site preparation, provision of silt control fences shall be provided. A Sediment/Erosion Control detail shall be submitted to the Certifying Authority **prior to the issue of the Construction Certificate.**
83. Prior to the sale, transfer, assignment or other disposal of or leasing or parting with provision of any part of the land subject to this approval, a copy of the approval shall be given to the purchaser, transferee, assignee, leasee, occupier or other person of that part of the land.
84. A Construction Certificate Application is required to be submitted to and issued by the Principal Certifying Authority **prior to any building works being carried out on site.**
85. An Occupation Certificate is to be issued by the Principal Certifying Authority **prior to occupation of the development.**
86. 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.
87. All site waters during excavation and construction shall be contained on site in an approved manner to avoid pollutants entering into the Harbour or Council's stormwater drainage system.

88. In the event that de-watering of the site becomes necessary, the discharge of waters to Council's Stormwater System is to be to the satisfaction of the Principal Certifying Authority and the Environmental Protection Authority and shall be in accordance with the Protection of the Environment Operations Act 1997.
89. The capacity and effectiveness of erosion and sediment control devices must be maintained to Council's satisfaction at all times.
90. Building operations such as brickcutting, 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.
91. All disturbed areas shall be stabilised against erosion to Council's satisfaction within 14 days of completion, and prior to removal of sediment controls.
92. The applicant and/or builder must prior to the commencement of work, install at the periphery of the site, measures to control sedimentation and the possible erosion of the land. The measures must include:-
- siltation fencing;
  - protection of the public stormwater system; and
  - site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.
93. Building or construction work must be confined to the hours between 7.00am to 6.00pm, Monday to Friday and 7.00am to 1.00pm, Saturday, with a total exclusion of such work on Public Holidays and Sundays. Non-offensive works where power operated plant is not used and including setting out, surveying, plumbing, electrical installation, tiling, internal timber or fibrous plaster fixing, glazing, cleaning down brickwork, magnesite flooring, painting, building or site cleaning by hand shovel and site landscaping, is permitted between the hours of 1.00pm to 4.00pm Saturdays.
- Note: That the Protection of the Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.
94. This approval shall expire if the development hereby permitted is not commenced within 2 years of the date hereof or any extension of such period which Council may allow in writing on an application made before such an expiry.
95. In accordance with the Roads Act 1993, written consent from Council shall be obtained and shall 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.
96. An archival quality photographic record is to be made of the existing site and buildings (internal and external) in accordance with the relevant guidelines of the NSW Heritage Office prior to demolition and submitted to Principal Certifying Authority/ Council **prior to issue of the construction certificate**. Photographs during the construction and after construction are also to be taken, included in the record and a complete record submitted to Council on completion of the works. The archive material is to include a copy of the development application plans, SHI, plus measured drawings and elevations of the heritage item (A4 or A3 size). The photographs are to be in black and white and colour and referenced to the plans of the existing. The photographic record and the black and white negatives are to be submitted in an A4 format and when received will be lodged with the Manly Local Studies Library. Two copies of the record are required one of which is to include the black and white negatives.
97. A heritage consultant shall be engaged to have a 'watching brief' during the demolition and

construction. In particular the heritage consultant must supervise any demolition in the vicinity of significant heritage fabric and the removal of any fabric for reuse including original facades and openings, internal ceiling, window and cornice features. The demolition of part of the original rooms at the west corner (Addison Road facing) at ground level and behind the existing garage, are to be particularly supervised to ensure compliance with conditions of the approval. In addition, the uncovering of evidence of functions associated with earlier uses found or disturbed are to be professionally recorded and assessed.

98. Written confirmation of the engagement of a heritage conservation architect and the architect's name and their brief (with a scope consistent with requirements of this consent) shall be submitted to the Principal Certifying Authority/ Council **prior to issue of the Construction Certificate.**
99. If during the course of excavation relics are found, works are to stop and an excavation permit must be obtained from the NSW Heritage Council, in accordance with the relics provisions of the Heritage Act, 1977. A copy of this permit and archaeologists report is to be submitted to Council.

Investigate retention of the cupboard and associated joinery including architraves and shelving located at the existing nurse's station on the ground floor. Details of this investigation to be provided to the Principal Certifying Authority/Council **prior to issue of the construction certificate.** If this cannot be achieved the cupboard should be carefully dismantled and rebuilt to be retained in the entry area of the proposed new apartments. This will allow it to form part of the interpretation display of the original building. The cupboard should be recorded in accordance with the NSW Heritage Office Guidelines.

100. The entire early roof design including the sloping slate roof and flat membrane roofs are to be retained.
101. The existing and new pitched roofs of Mandalay are to be clad in Welsh slate with terracotta ridging to match the original. The slate roof to the front of the original building is to be retained and conserved.
102. Investigate the retention of the original windows to the rear of the existing building in the existing ward 7, ward 14 and ward 17 in their original position. Details of this investigation to be provided to Council prior to issue of the construction certificate. If this cannot be achieved the windows should be carefully removed and repaired where necessary to be reused in another location in the building. Details to be provided to Principal Certifying Authority/ Council **prior to issue of the construction certificate.** The windows are to be recorded in accordance with the NSW Heritage Office Guidelines.
103. The early timber framed windows, and door in the basement are to be retained for reuse in their current position or salvaged for use elsewhere on the site. The door may be able to be used in the garbage area and the red colouring of the concrete be used in the basement area as a form of interpretation of the original buildings features. The windows, door and red coloured concrete are to be recorded in accordance with the NSW Heritage Office Guidelines. Details of the above to be submitted to Principal Certifying Authority/ Council **prior to issue of the construction certificate.**
104. Arts and Craft features of the Addison Road façade are to be retained including the timber framed margin windows, stained glass upper floor windows with Art Nouveau detailing and gable roofs, windows, timber joinery, brick external walls and sandstone bases of bay windows. The entry terrace is to be reopened similar to the original layout.
105. The return windows on the first floor of the Addison road facade are not to be bricked up. They are to be retained in their present location and be conserved. Amended details to be submitted to Principal Certifying Authority/ Council **prior to issue of the construction certificate**

106. The garage façade structure at the northern corner of the site along Addison Road is to be retained where appropriate and restored and have a tilt panel mechanism installed. Details are to be provided to the satisfaction of Council prior to the issue of construction certificate.
107. The reconstruction of the missing garage (western corner) should go as far in detail as reproducing the garage doors to achieve proper symmetry with the surviving garage. The proposed design and positioning of the entry areas of the west corner structure are to be subject of further detailed design investigation into the façade arrangement to be sympathetic to the original building. In particular, the south-western garage on the Addison Road frontage is to have a matching garage door to the one on the north-eastern boundary to retain the symmetry of the front elevation and based on models contemporary to the original building. Notwithstanding BCA requirements the positioning of the openings and their proportions are to achieve a more sympathetic and symmetrical arrangement. In this regard the fire access door can be relocated to the northern elevation of the stairs and the single width garage door can act as the garbage opening as well as fire access in an emergency with a motorised opening mechanism. Details to be submitted to Principal Certifying Authority/ Council **prior to issue of the construction certificate.**
108. The existing front brick garden wall, wrought iron lanterns on the brick wall flanking the main entrance and the bird bath in the front yard are all significant heritage features of the site that must be retained with the development. Their protection during development works must be evidenced in the Construction Certificate.
109. All original windows in the side and street elevations should be kept and any missing windows should be reconstructed in sympathy with the original symmetry.
110. The proposed new canopy above the front door is to match the original exactly in materials and finishes.  
  
All original windows in original building are to be hung in the traditional manner (not awning hung).
111. The first structural bay of masonry behind the original street elevation is to be retained to avoid risk of the facade being lost altogether during construction.
112. The significant main entry alcove original fabric is to be reused on site where possible. The architectural detailing of the new stairway and entrance foyer is to match the original fabric in terms of architectural style of the original period including windows, panelling and timber detail. The new stair is also to be of the same style as the original existing stair. Details of which to be submitted to the Principal Certifying Authority/ Council **prior to issue of the construction certificate.**
113. As much original fabric from the original west corner (Addison Road facing) room on the ground and first floors and those rooms adjacent are to be retained including original internal features including cornices and ceiling. Any fabric that cannot be retained in situ should be salvaged and/or moulds taken for use throughout the site under supervision of the applicants' Heritage Architect.
114. As much original fabric from the original room behind the existing garage, and the associated features, including the original window and ceiling features of the room are to be retained. Any fabric that cannot be retained in situ should be salvaged and moulds taken of the ceilings for re-use in the same or similar room location on-site under supervision of the applicants' Heritage Architect.
115. The original colour scheme (internal and external) shall be investigated, documented and a copy of the results provided to Council. An external colour and finishes schedule shall be submitted to Principal Certifying Authority/ Council for approval **prior to issue of the Construction Certificate.** Any new paint colour scheme is to be the original colour scheme

or sympathetic to the architectural style of the building. Painting is only to occur in previously painted areas and no painting of stone work is permitted. Details of any new colour scheme are to be submitted to Council for approval.

116. All proposed new material should be selected to ensure the heritage significance of the item is maintained. The design details and finishes of the proposed new works are to be respectful and sympathetic to the heritage significance of the item, whilst being identifiable as new.
117. Retain the important significant fabric in the Addison Road frontage including the face brick garden wall, the wrought iron lanterns mounted on the brick wall flanking the main entrance, the bird bath and the entire early roof design including the sloping slate roof and flat membrane roofs.
118. Any significant heritage fabric that cannot be retained in situ is to be salvaged for use throughout the site. In the case of cornices, ceiling features and the like found in rooms identified as having high significance in the conservation plan prepared by Tropman and Tropman, mouldings are to be taken and used throughout the site. Details of the appropriate methodology and management of these conservation measures is to be provided by the applicants Heritage Architect to the Principal Certifying Authority/ Council **prior to the issue of the construction certificate.**
119. The structural stability of the original building is to be maintained at all times during demolition, test drilling, excavation and construction stages of the development.
120. The applicant is to provide a certificate of structural adequacy with the Construction Certificate. The applicant's heritage architect is to review the certificate of structural adequacy with a view to the protection of remaining heritage fabric.
121. The works to which these general terms of approval apply are not to commence until such time as the NSW Maritime has issued a Part 3A Permit under the Rivers and Foreshores Improvement Act 1948.

The proposed construction works are to be carried out so that:

122. No materials are eroded, or likely to be eroded, are deposited, or likely to be deposited, on the bed or shore or into the waters of Little Manly Cove; and
123. No materials are likely to be carried by natural forces to the bed, shore or waters of Little Manly Cove.
124. Any material that does enter Little Manly Cove must be removed immediately.
125. In relation to the above, a plan to manage erosion, sediment and other pollutants at the site is to be prepared by a suitable qualified person(s). A suitable plan is to be submitted to NSW Maritime prior to a Part 3A Permit being issued.
126. Best practice methods shall be adopted for the on-site control of runoff, sediment and other pollutants during, and post, construction. Methods shall be in accordance with the relevant specifications and standards contained in the manual Managing Urban Stormwater - Soils & Construction issued by the NSW Department of Housing in 1998 and any other relevant Council requirements.
127. The erosion, sediment and pollution controls shall be installed and stabilised before commencement of site works (this does not include the works associated with the construction of the appropriate controls).

128. The proposed system for erosion, sediment and pollution control is to be effectively maintained at or above design capacity for the duration of the works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.
129. Any material that is to be stockpiled on site is to be covered and stabilised to prevent erosion or dispersal of the material.
130. The rocky cliff on the southern side of the site and the inter-tidal area is to be fully protected for the duration of the works. This includes preventing the use of any machinery, or storage of construction materials, supplies, or waste receptacles, in the area.
131. Native trees that are present on the site and adjoining land are to be retained and fully protected for the duration of the works (unless authorised for removal). In particular, works are to be undertaken with regard to protection of the root zone of trees, including preventing stockpiling of materials, parking of equipment and machinery and alteration of soil levels within the root zone.
132. Any foreshore landscaping is to be comprised of locally indigenous species and plantings above the cliff top line in the area to the South East of the site to not exceed 4m at mature height which represent the original plant communities that would have been found along the shoreline in the vicinity of the subject land. Thought should be given to presenting species which provide a buffer between the development and the established critical habitat. Suitably prepared plans are to be provided to NSW Maritime prior to the issuing of a Part 3A permit.
133. Detailed information on the location and design of the stormwater collection and treatment system is to be provided to NSW Maritime prior to a Part 3A permit being issued.
134. The discovery of archaeological remains may require localized stop work while the remains are recorded by an archaeologist. Contractors on site are required under heritage legislation to report archaeological remains. Excavation works should comply with relevant legislation especially the 'relics' provisions of the NSW Heritage Act." In this regard the applicant must be satisfied of any requirement to obtain an excavation permit under s 140 of the Act.

The NSW National Parks and Wildlife Act 1974 (§ 90) states:

- (1) *A person who, without first obtaining the consent of the Director-General, knowingly destroys, defaces or damages, or knowingly causes or permits the destruction or defacement of or damage to, an Aboriginal object or Aboriginal place is guilty of an offence against this Act.*

§21U of the Aboriginal and Torres Strait Islander Heritage Protection Act states:

- (1) *A person is guilty of an offence if:*
  - (a) *the person:*
    - (i) *does an act; and*
    - (ii) *the act causes damage to, the defacing of, or interference with, an Aboriginal object or an Aboriginal place; or*
  - (b) *the person does an act likely to endanger an Aboriginal object or Aboriginal place.*

*Penalty:*

- (a) *if the person is a natural person—\$10,000 or imprisonment for 5 years, or*

*both; or*  
*(b) if the person is a body corporate—\$50,000.*

Unless an excavation permit has been issued by the Minister, it is an offence to disturb or excavate land knowing that archaeological evidence of either Indigenous or non-Indigenous origin may be present.

The Heritage Act 1977 (New South Wales) states in §139 that:

*(1) A person must not disturb or excavate any land knowing or have reasonable cause to suspect that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed unless the disturbance or excavation is carried out in accordance with an excavation permit.*

*(2) A person must not disturb or excavate any land on which the person has discovered or exposed a relic except in accordance with an excavation permit.*

Consent for a development, issued by the Council, does not provide an applicant with an excavation permit, nor a permit to destroy, damage or remove items of archaeological significance originating from either Indigenous or non-Indigenous cultures. This permit must be applied for independently through the Heritage Council of New South Wales.

135. If any cultural material or relics are unearthed during any stages of development, then all work should cease promptly and the metropolitan LALC and NSW NPWS are to be notified as soon as possible.
136. This approval shall expire if the development hereby permitted is not commenced within 2 years of the date hereof or any extension of such period which Council may allow in writing on an application made before such an expiry.
137. Prior to the issuing of the Construction Certificate, the payment of Developer Contribution under Section 94 of the *Environmental Planning and Assessment Act* 1979 in accordance with Manly Section 94 Contributions Plan as applicable at the time of payment.
138. That the imposition of a bond in the form of a Bank Guarantee to the suggested amount of \$500,000 for breach of conditions relating to preservation of the cliff face and equipment being operated in short burst to alleviate amplification of vibrations.
139. That the Development Application be referred to Scientific Advisory Panel.

**For the Amendment:** Councillors Lambert, Cant, Pedersen, Aird, Evans, Norek and Macdonald.

**Against the Amendment:** Councillors Hay, Heasman, Murphy, Daley and Morrison.

The **Amendment** became the **Motion** and was put and declared **Carried**.

**RESOLVED: (Cant/Macdonald)**

That pursuant to Section 80(3) ("**deferred commencement**".) Environmental Planning and Assessment Act 1979, Development Application No. 339/04 for alterations and additions to the existing building and conversion to five (5) residential units with basement car-parking at 2 Addison Road, Manly (Mandalay Private Hospital) be approved but such approval shall not operate until the applicant has satisfied the following in principal conditions:-



- A. Consistent with environmental precautionary principles for the protection of sensitive natural resources, the applicant shall further setback the extent of the basement excavation from the rear boundary and cliff line by at least another 1.50 metres.
- B. The Applicant shall undertake further geotechnical assessments of the proposed excavation, as modified by Condition A, to ensure that any excavation proposal including the methods to be used are in all respects, capable of satisfying environmental precautionary principles for the protection of sensitive natural resources. A Statement jointly prepared by the Geotechnical Consultant and the project Ecologist, certifying the proposed excavation and the methods proposed to be used are in compliance with environmental precautionary principles for the protection of sensitive natural resources shall be submitted to Council, including any requirements for the submission of a revised *Species Impact Statement*.
- C. Plans as modified by Condition A and Condition B must be submitted to Council for prior assessment and approval. Such plans must demonstrate that the proposed car park layout is capable of complying with the minimum requirements under Council's DCP for the provision of onsite parking and manoeuvring area requirements of the relevant Australian Standards.

Amended Plans and Report under A, B and C above are to be submitted within a period of 6 months pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979. The consent will, when activated operate for a period of two (2) years.

Development Application conditions of consent upon compliance with the above matters are as follows:

1. Generally in accordance with Plans drawings DA00 – DA15 dated July 2004 and received by Council 6 July, 2004, as amended by deferred commencement conditions.
2. Compliance with recommended conditions of the Species Impact Statement dated 15 June 2004 and the submitted Geotechnical reports prepared by Jeffery and Katauskas Pty Ltd.
3. Compliance with the Environmental Management Plan (preliminary) prepared by Tesrol Building Group received by Council on 6 July 2004 and as required to be modified by conditions of this consent. A final Environmental Management Plan incorporating all required amendments and additions is to be submitted with the construction certificate to the satisfaction of the Principal Certifying Authority
4. Heavy excavation works are not to be undertaken during the breeding season (Breeding season - 1 July to 28 Feb). If penguins arrive in the study area whilst works are being undertaken, all works are to cease and the Threatened Species Unit, Central Directorate of DEC is to be contacted for advise.
5. The applicant is to employ a qualified ecologist and geologist to oversee the proposed works. The function of the ecologist and geologist is to certify the satisfactory implementation of consent conditions. The responsibility of the ecologist and geologist include:
  - Inspection of burrows on site for presence/absence of penguins prior to works commencing
  - Advise the Site Manager/Foreman of the sensitivity of the site, habitat features and consent conditions
  - Educate all contract staff as to the presence of the penguins and the sensitivity of their habitat
  - Ensure works cease if penguins arrive prior to the completion of works and to notify DEC
  - Supervise the erection of any fences on the site such as catch fences and retaining

- walls, for security and for erosion/sedimentation to ensure minimal impact on the penguins
- Ensure that work is carried out in a manner that does not interfere or result in the collapse of penguin burrows or habitat
  - Ensure the protection of vegetation on site and re-vegetation with locally indigenous species
  - Ensure the protection of access and egress routes to burrows
6. Following completion of the works, burrows are to be inspected by a qualified ecologist and if found to be damaged, they are to be restored by a suitable qualified person to a similar condition/dimension as prior to construction. Hence the ecologist will need to thoroughly record the dimensions, conditions etc of the burrows and surrounding habitat prior to construction.
  7. Any retaining walls / catch fences are to be constructed in such a way as to ensure there is no impact on penguin habitat and under the supervision of a qualified ecologist
  8. All artificial lighting shall be provided in accordance with the requirements of the Building Code of Australia. Any lighting used during construction and after completion is to be directed away from penguin burrows and the foreshore area where penguins come ashore.
  9. No works are to be undertaken below the cliff line.
  10. Habitat below the cliff line is not to be removed or modified in conjunction with the development in its future occupation.
  11. Contractors are to be given a copy of the Flora and Fauna Impact Statement and briefed on penguins, critical habitat, access restrictions and effects of disturbance on penguins in their habitat.
  12. All construction access to the property will be via Addison Road. No access during construction will be via Little Manly Cove.
  13. Hydraulic hammers and other heavy excavation equipment causing vibration must not be used.
  14. Equipment is to be operated in short bursts only, to avoid amplification of vibration.
  15. No jack hammering on the site, sandstone is to be removed using saws.
  16. No work classified here as *'heavy construction work'* including excavation will take place during the breeding season for the Little Penguin (July to February).
  17. No night work to be conducted on site (outside scheduled daylight hours).
  18. All excavation must be either retained by an engineered retaining structure or battered to stable angles.
  19. The use of a wire mesh catch fence on the cliff face 2m high to prevent any dislodged boulders or building debris falling down the cliff face.
  20. The proposed excavation work shall be inspected by an experienced Engineering Geologist or Geotechnical Engineer and the stability of the cliff face has to be continuously and regularly monitored. The applicant is to do all the work recommended by the Engineering Geologist or Geotechnical Engineer to ensure that the stability of the cliff face is maintained.
  21. Outside lighting is to be minimized especially in areas adjacent to the foreshore.

22. Stormwater management systems should be implemented and maintained to ensure no additional stormwater flow over the cliff.
23. Implementation, regular inspection and maintenance of erosion and sediment control measures such as sediment control barrier fences.
24. Detailed guidelines for the implementation of the drainage concepts; and Installation of stormwater pump out pits and, drainage inlet filters to be documented with the construction certificate in accordance with conditions of this consent.
25. The stormwater system will drain into 2 separate retention tanks situated at the rear and front of the subject site. This water will be utilised for irrigation on gardens as well as water closets and laundry devices in the building.
26. An ecologist must visually identify and record (without marking) potential and actual Little Penguin nest sites immediately prior to commencement of excavation works and that these sites be rechecked immediately after completion of excavation to ensure that no nest sites have been affected and to clear any obstructions if they have been affected. Brief reports are to be submitted to Council and NPWS after each investigation.
27. Dilapidation surveys must be carried out on adjoining properties, in order to document the conditions prior to commencement of all works and to respond to any claims for damage arising from excavation and construction activities (copy to be forwarded to Council prior to commencement).
28. That the applicants' geotechnical consultant and the applicants' environmental consultant are to liaise and determine the best form of stabilization work that would provide adequate stability to the cliff face while being sensitive to the Little Penguins critical habitat. Details including engineering detail and aesthetic presentation must be submitted to Council for approval prior to the issue of the construction certificate.
29. Access to the shoreline will not be provided via the hospital portion of the subject site and persons will be discouraged to do so, by the erection of fences and signage.
30. Fishing and other recreation activities from the cliff face and shoreline on the subject site will be discouraged by the erection of fences and signage as per details are to be provided with the construction management plan accompanying the construction certificate.
31. Access to the cliff face portion of the subject site will be prohibited by the erection of a two-metre high mesh fence for the construction phase.
32. Signs will be erected that identifies the cliff face area as a prohibited area; and
33. The residents of the proposed development at commencement of any site works are not to own cats or dogs besides from registered assistance animals.
34. Gardening and landscaping activities are not to alter any of the vegetation of the cliff-face, dump of garden refuse. The removal of any weeds and regeneration activities must be supervised by an appropriately qualified person in consultation with Council's Urban Services Group.
35. Prior to the commencement of any works, a Demolition Management Plan shall be submitted for Council approval. This Demolition Plan shall take into consideration the staging of the demolition works, including the installation of adequate scour and erosion control devices, appropriate runoff pollution control measures and the like during demolition to ensure that there will be minimal impact on the areas adjoining the site. It must also be demonstrated

that the proposed demolition works will not cause any detrimental affect on the colony of fairy penguins currently living in North Harbour.

36. Further geotechnical investigations and reports are required following demolition of the existing building and structures. This report shall confirm the stability of the site and suitable construction methods at this stage of development. This Geotechnical Report must also verify the dimensions and depth of the sewer trench. This shall be submitted to Council for assessment and approved prior to issue of a Construction Certificate for building works.
37. A more detailed stormwater management plan must be prepared following demolition of the existing building and structures in accordance with Council's "Specification for On-site Stormwater Management 2003". This plan shall be submitted to Council for assessment and approved prior to issue of a Construction Certificate for building works. The stormwater management plan shall be prepared by a experienced Chartered Civil Engineer and shall comply with the following conditions:
  - The location of the on-site stormwater detention system shown on the Hydraulic Drawing 256-03 H3 - Revision A shall be revised to ensure that the construction of the system is within the building and does not cause instability of the cliff. The location of the on site stormwater detention system shall be certified by the Geotechnical Engineer to ensure that the construction does not cause any instability.
  - An onsite stormwater detention system to be provided within the property to limit the permissible site discharge to 1 in 5 year flow of "state of nature" conditions. An on site stormwater detention system is required in this site to minimise any effects of the stormwater disposal on the penguins living in that area.
  - The location of the stormwater discharge point shall be selected to minimise any effect on the penguin's habitat in the area. Preferably existing discharge point to be maintained.
  - Erosion, sediment and pollution control measures to be incorporated in the stormwater disposal system.
  - The system shall incorporate an energy dissipater within the property.

The Principal Certifying Authority shall ensure that the design complies with the above requirements prior to the issue of the Construction Certificate.

38. On completion of the drainage works the applicant is required to submit work as executed drawings of the on site stormwater detention system. The work as executed drawings shall be certified by a Chartered Professional Engineer and submitted to Council prior to the Occupation Certificate is issued.
39. A positive covenant and the restriction on the use of land shall be imposed over the area of land affected by on site stormwater absorption/ detention system. The standard wording of the positive covenant shall be obtained from Council's "Specification for on-site Stormwater Management 2003" (Appendix A).The positive covenant shall be imposed prior to the release of the Trust Fund Deposit.
40. The construction of a vehicular footpath crossing and kerb layback is required. The design and construction shall be in accordance with Council's "Specification for Construction of Vehicular Crossings". The work shall be done with plain concrete. It is the responsibility of the owner, developer and builder that they understand the above specification and strictly comply with the specification. The work shall be inspected and approved by Council officers. All works shall be carried out prior to issue of the Occupation Certificate.
41. The driveway with gradient 1:5 shall be finished with a grooved surface or similar to minimize skidding of vehicles.

42. The detailed design of the development and proposed construction methods shall be prepared in consultation with the Geotechnical Engineer. The construction shall be closely supervised the Geotechnical Engineer.
43. The existing surplus vehicular crossing and/or kerb layback shall be removed and the kerb and nature strip reinstated **prior to issue of the Occupation Certificate.** (DA11)
44. A long section of the driveway shall be submitted with the Construction Certificate Application. The long section is to be drawn at a scale of 1:20 and shall include Relative Levels (RL) of the road centreline, kerb, road reserve, pavement within property and garage floor. The RLs shall include the existing levels and the designed levels. (DA13)
45. Pursuant to Section 97 of the Local Government Act, 1993, Council requires, **prior to issue of the Construction Certificate, or commencement of any excavation and demolition works**, payment of a Trust Fund Deposit of \$25,000. The Deposit is required as security of compliance with Conditions of Consent, and as security against damage to Council property during works on the site.

**Note:** Should Council property adjoining the site be defective eg, cracked footpath, broken kerb etc., this shall be reported in writing to Council, **at least 7 days prior to the commencement of any work on site.**

46. No obstruction shall be caused to pedestrian use of Council's footpath or vehicular use of any public roadway during construction.
47. Any adjustment to the public utility service is to be carried out in compliance with their standards and the cost is to be borne by the applicant.
48. Details of the builder's name and licence number contracted to undertake the works shall be provided to Council **prior to issue of the Construction Certificate.**
49. Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.
50. Retaining walls being constructed in conjunction with excavations with such work being in accordance with structural engineer's details. Certification of compliance with the structural detail during construction shall be submitted to the Principal Certifying Authority.
51. A sign must be erected on the subject site in a prominent position stating that unauthorised entry is prohibited and giving details of the name of the builder or the person responsible for the site and 24 hour contact details. The sign is to have dimensions of approximately 500mm x 400mm.

Note: The sign is not required if the building on the site is to remain occupied during the course of the building works.

52. All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans with certification being submitted to the Principal Certifying Authority during construction from a registered surveyor certifying ground and finished ridge levels.
53. 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 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 that you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.

54. A Certificate of Adequacy signed by a practising Structural Engineer is to be submitted to the Principal Certifying Authority in respect of the load carrying capabilities of the existing structure to support the proposed **additions prior to the issue of the Construction Certificate**.
55. Four (4) certified copies of the Structural Engineer's details in respect of all reinforced concrete, structural steel support construction and any proposed retaining walls shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate**.
56. Where any excavation extends below the level of the base of the footing of a building on an adjoining allotment of land, the person causing the excavation shall support the neighbouring building in accordance with the requirements of the Building Code of Australia.
57. The implementation of adequate care during building / construction / excavation / demolition to ensure that no damage is caused to any adjoining properties.
58. Prior to excavation applicants should contact the various utility providers to determine the position of any underground services.
59. 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.
60. A dilapidation report in regard to adjoining properties and Council land is to be submitted to Council with the Trust Fund **Deposit prior to the issue of the Construction Certificate**.
61. Four (4) Architectural/Services Specifications are to be submitted with the Construction Certificate application/**prior to the issue of the Construction Certificate**.
62. The visitor car spaces shall be accessible at all times and a sign post shall be erected at the vehicular entry point(s) of the development indicating the location of the spaces.
63. A system of onsite stormwater detention shall be provided within the property in accordance with Council's specification. Details shall be submitted with the Construction Certificate Application and be approved **prior to the issue of the Construction Certificate**.
64. The proposed construction of a substantial stormwater mitigation tank (not shown on structural drawings or cross sections) must be located to minimise the potential to exacerbate the instability of the cliff upon excavation. Details shall be submitted with the Construction Certificate Application and be approved **prior to the issue of the Construction Certificate**.
65. All demolition is to be carried out in accordance with AS2601-1991.
66. Asbestos cement sheeting must be removed in accordance with the requirements of the WorkCover Authority.
67. A Fire Safety Schedule specifying the fire safety measures (both current and proposed) that should be implemented in the building premises shall be submitted with the Construction Certificate application, in accordance with Part 9 Clause 168 of the Environmental Planning and Assessment Regulation 2000.

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

68. The building being erected in Type A construction for a Class 2 & 7 building in accordance with the Fire Resistance Provisions of the Building Code of Australia.
69. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
70. Landscaping is to be carried out in accordance with the approved Landscape Plan submitted in conjunction with the Development Application. Evidence of an agreement for the maintenance of all plants for a period of 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.**
71. Trees along the boundary to Peace Park are to remain undisturbed and protected from damage.
72. All healthy trees and shrubs identified for retention on the plan must be retained and suitably marked before any development starts and be suitably protected from damage during the construction process;
73. All disturbed surfaces on the land resulting from the building works authorised by this approval shall be revegetated and stabilised so as to prevent any erosion either on or adjacent to the land.
74. The felling, lopping, topping, ringbarking, willful destruction or removal of any tree or trees unless in conformity with this approval or subsequent approval is prohibited.
75. No tree other than on land identified for the construction of buildings and works as shown on the building plan shall be felled, lopped, topped, ringbarked or otherwise wilfully destroyed or removed without the approval of Council.
76. The trees to be retained are to be protected from trenching or excavation works or other construction works during the building construction stage. A security bond for \$30,000 is required to ensure that the trees are protected during the construction stage. The security bond may be in the form of a bank guarantee which must be lodged with Council **prior to issue of the Construction Certificate.**
77. All trees on the site clear of the building are to be retained and those trees within 7.5m of the building are to be provided with a tree guard and a notice on each guard reading: "This tree is the subject of a Tree Preservation Order by Manly Council". This notice is to be in position prior to any work being commenced on the site.
78. Landscaping being provided in accordance with the approved Landscaping Plan and maintained in accordance with that plan at all times.
79. Trees and shrubs liable to damage are to be protected with suitable temporary enclosures for the duration of the works. These enclosures shall only be removed when directed by the Principal Certifying Authority.
80. The enclosures are to be constructed out of F62 reinforcing mesh 1800mm high wired to 2400mm long star pickets, driven 600mm into the ground, spaced 1800mm apart at a minimum distance of 1000mm from the tree trunk.

81. Precautions shall be taken when working near trees to be retained including the following:
- do not store harmful or bulk materials or spoil under or near trees
  - prevent damage to bark and root system
  - do not use mechanical methods to excavate within root zones
  - do not add or remove topsoil from under the drip line
  - do not compact ground under the drip line.
82. **Prior to the commencement of any works** on the land including demolition and site preparation, provision of silt control fences shall be provided. A Sediment/Erosion Control detail shall be submitted to the Certifying Authority **prior to the issue of the Construction Certificate**.
83. Prior to the sale, transfer, assignment or other disposal of or leasing or parting with provision of any part of the land subject to this approval, a copy of the approval shall be given to the purchaser, transferee, assignee, leasee, occupier or other person of that part of the land.
84. A Construction Certificate Application is required to be submitted to and issued by the Principal Certifying Authority **prior to any building works being carried out on site**.
85. An Occupation Certificate is to be issued by the Principal Certifying Authority **prior to occupation of the development**.
86. 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.
87. All site waters during excavation and construction shall be contained on site in an approved manner to avoid pollutants entering into the Harbour or Council's stormwater drainage system.
88. In the event that de-watering of the site becomes necessary, the discharge of waters to Council's Stormwater System is to be to the satisfaction of the Principal Certifying Authority and the Environmental Protection Authority and shall be in accordance with the Protection of the Environment Operations Act 1997.
89. The capacity and effectiveness of erosion and sediment control devices must be maintained to Council's satisfaction at all times.
90. Building operations such as brickcutting, 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.
91. All disturbed areas shall be stabilised against erosion to Council's satisfaction within 14 days of completion, and prior to removal of sediment controls.
92. The applicant and/or builder must prior to the commencement of work, install at the periphery of the site, measures to control sedimentation and the possible erosion of the land. The measures must include:-
- siltation fencing;
  - protection of the public stormwater system; and
  - site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.
93. Building or construction work must be confined to the hours between 7.00am to 6.00pm, Monday to Friday and 7.00am to 1.00pm, Saturday, with a total exclusion of such work on



Public Holidays and Sundays. Non-offensive works where power operated plant is not used and including setting out, surveying, plumbing, electrical installation, tiling, internal timber or fibrous plaster fixing, glazing, cleaning down brickwork, magnesite flooring, painting, building or site cleaning by hand shovel and site landscaping, is permitted between the hours of 1.00pm to 4.00pm Saturdays.

Note: That the Protection of the Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.

94. This approval shall expire if the development hereby permitted is not commenced within 2 years of the date hereof or any extension of such period which Council may allow in writing on an application made before such an expiry.
95. In accordance with the Roads Act 1993, written consent from Council shall be obtained and shall 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.
96. An archival quality photographic record is to be made of the existing site and buildings (internal and external) in accordance with the relevant guidelines of the NSW Heritage Office prior to demolition and submitted to Principal Certifying Authority/ Council **prior to issue of the construction certificate**. Photographs during the construction and after construction are also to be taken, included in the record and a complete record submitted to Council on completion of the works. The archive material is to include a copy of the development application plans, SHI, plus measured drawings and elevations of the heritage item (A4 or A3 size). The photographs are to be in black and white and colour and referenced to the plans of the existing. The photographic record and the black and white negatives are to be submitted in an A4 format and when received will be lodged with the Manly Local Studies Library. Two copies of the record are required one of which is to include the black and white negatives.
97. A heritage consultant shall be engaged to have a 'watching brief' during the demolition and construction. In particular the heritage consultant must supervise any demolition in the vicinity of significant heritage fabric and the removal of any fabric for reuse including original facades and openings, internal ceiling, window and cornice features. The demolition of part of the original rooms at the west corner (Addison Road facing) at ground level and behind the existing garage, are to be particularly supervised to ensure compliance with conditions of the approval. In addition, the uncovering of evidence of functions associated with earlier uses found or disturbed are to be professionally recorded and assessed.
98. Written confirmation of the engagement of a heritage conservation architect and the architect's name and their brief (with a scope consistent with requirements of this consent) shall be submitted to the Principal Certifying Authority/ Council **prior to issue of the Construction Certificate**.
99. If during the course of excavation relics are found, works are to stop and an excavation permit must be obtained from the NSW Heritage Council, in accordance with the relics provisions of the Heritage Act, 1977. A copy of this permit and archaeologists report is to be submitted to Council.  
  
Investigate retention of the cupboard and associated joinery including architraves and shelving located at the existing nurse's station on the ground floor. Details of this investigation to be provided to the Principal Certifying Authority/Council **prior to issue of the construction certificate**. If this cannot be achieved the cupboard should be carefully dismantled and rebuilt to be retained in the entry area of the proposed new apartments. This will allow it to form part of the interpretation display of the original building. The cupboard should be recorded in accordance with the NSW Heritage Office Guidelines.
100. The entire early roof design including the sloping slate roof and flat membrane roofs are to be retained.

101. The existing and new pitched roofs of Mandalay are to be clad in Welsh slate with terracotta ridging to match the original. The slate roof to the front of the original building is to be retained and conserved.
102. Investigate the retention of the original windows to the rear of the existing building in the existing ward 7, ward 14 and ward 17 in their original position. Details of this investigation to be provided to Council prior to issue of the construction certificate. If this cannot be achieved the windows should be carefully removed and repaired where necessary to be reused in another location in the building. Details to be provided to Principal Certifying Authority/ Council **prior to issue of the construction certificate**. The windows are to be recorded in accordance with the NSW Heritage Office Guidelines.
103. The early timber framed windows, and door in the basement are to be retained for reuse in their current position or salvaged for use elsewhere on the site. The door may be able to be used in the garbage area and the red colouring of the concrete be used in the basement area as a form of interpretation of the original buildings features. The windows, door and red coloured concrete are to be recorded in accordance with the NSW Heritage Office Guidelines. Details of the above to be submitted to Principal Certifying Authority/ Council **prior to issue of the construction certificate**.
104. Arts and Craft features of the Addison Road façade are to be retained including the timber framed margin windows, stained glass upper floor windows with Art Nouveau detailing and gable roofs, windows, timber joinery, brick external walls and sandstone bases of bay windows. The entry terrace is to be reopened similar to the original layout.
105. The return windows on the first floor of the Addison road facade are not to be bricked up. They are to be retained in their present location and be conserved. Amended details to be submitted to Principal Certifying Authority/ Council **prior to issue of the construction certificate**
106. The garage façade structure at the northern corner of the site along Addison Road is to be retained where appropriate and restored and have a tilt panel mechanism installed. Details are to be provided to the satisfaction of Council prior to the issue of construction certificate.
107. The reconstruction of the missing garage (western corner) should go as far in detail as reproducing the garage doors to achieve proper symmetry with the surviving garage. The proposed design and positioning of the entry areas of the west corner structure are to be subject of further detailed design investigation into the façade arrangement to be sympathetic to the original building. In particular, the south-western garage on the Addison Road frontage is to have a matching garage door to the one on the north-eastern boundary to retain the symmetry of the front elevation and based on models contemporary to the original building. Notwithstanding BCA requirements the positioning of the openings and their proportions are to achieve a more sympathetic and symmetrical arrangement. In this regard the fire access door can be relocated to the northern elevation of the stairs and the single width garage door can act as the garbage opening as well as fire access in an emergency with a motorised opening mechanism. Details to be submitted to Principal Certifying Authority/ Council **prior to issue of the construction certificate**.
108. The existing front brick garden wall, wrought iron lanterns on the brick wall flanking the main entrance and the bird bath in the front yard are all significant heritage features of the site that must be retained with the development. Their protection during development works must be evidenced in the Construction Certificate.
109. All original windows in the side and street elevations should be kept and any missing windows should be reconstructed in sympathy with the original symmetry.

110. The proposed new canopy above the front door is to match the original exactly in materials and finishes.
- All original windows in original building are to be hung in the traditional manner (not awning hung).
111. The first structural bay of masonry behind the original street elevation is to be retained to avoid risk of the facade being lost altogether during construction.
112. The significant main entry alcove original fabric is to be reused on site where possible. The architectural detailing of the new stairway and entrance foyer is to match the original fabric in terms of architectural style of the original period including windows, panelling and timber detail. The new stair is also to be of the same style as the original existing stair. Details of which to be submitted to the Principal Certifying Authority/ Council **prior to issue of the construction certificate.**
113. As much original fabric from the original west corner (Addison Road facing) room on the ground and first floors and those rooms adjacent are to be retained including original internal features including cornices and ceiling. Any fabric that cannot be retained in situ should be salvaged and/or moulds taken for use throughout the site under supervision of the applicants' Heritage Architect.
114. As much original fabric from the original room behind the existing garage, and the associated features, including the original window and ceiling features of the room are to be retained. Any fabric that cannot be retained in situ should be salvaged and moulds taken of the ceilings for re-use in the same or similar room location on-site under supervision of the applicants' Heritage Architect.
115. The original colour scheme (internal and external) shall be investigated, documented and a copy of the results provided to Council. An external colour and finishes schedule shall be submitted to Principal Certifying Authority/ Council for approval **prior to issue of the Construction Certificate.** Any new paint colour scheme is to be the original colour scheme or sympathetic to the architectural style of the building. Painting is only to occur in previously painted areas and no painting of stone work is permitted. Details of any new colour scheme are to be submitted to Council for approval.
116. All proposed new material should be selected to ensure the heritage significance of the item is maintained. The design details and finishes of the proposed new works are to be respectful and sympathetic to the heritage significance of the item, whilst being identifiable as new.
117. Retain the important significant fabric in the Addison Road frontage including the face brick garden wall, the wrought iron lanterns mounted on the brick wall flanking the main entrance, the bird bath and the entire early roof design including the sloping slate roof and flat membrane roofs.
118. Any significant heritage fabric that cannot be retained in situ is to be salvaged for use throughout the site. In the case of cornices, ceiling features and the like found in rooms identified as having high significance in the conservation plan prepared by Tropman and Tropman, mouldings are to be taken and used throughout the site. Details of the appropriate methodology and management of these conservation measures is to be provided by the applicants Heritage Architect to the Principal Certifying Authority/ Council **prior to the issue of the construction certificate.**
119. The structural stability of the original building is to be maintained at all times during demolition, test drilling, excavation and construction stages of the development.

120. The applicant is to provide a certificate of structural adequacy with the Construction Certificate. The applicant's heritage architect is to review the certificate of structural adequacy with a view to the protection of remaining heritage fabric.
121. The works to which these general terms of approval apply are not to commence until such time as the NSW Maritime has issued a Part 3A Permit under the Rivers and Foreshores Improvement Act 1948.  
  
The proposed construction works are to be carried out so that:
122. No materials are eroded, or likely to be eroded, are deposited, or likely to be deposited, on the bed or shore or into the waters of Little Manly Cove; and
123. No materials are likely to be carried by natural forces to the bed, shore or waters of Little Manly Cove.
124. Any material that does enter Little Manly Cove must be removed immediately.
125. In relation to the above, a plan to manage erosion, sediment and other pollutants at the site is to be prepared by a suitable qualified person(s). A suitable plan is to be submitted to NSW Maritime prior to a Part 3A Permit being issued.
126. Best practice methods shall be adopted for the on-site control of runoff, sediment and other pollutants during, and post, construction. Methods shall be in accordance with the relevant specifications and standards contained in the manual Managing Urban Stormwater - Soils & Construction issued by the NSW Department of Housing in 1998 and any other relevant Council requirements.
127. The erosion, sediment and pollution controls shall be installed and stabilised before commencement of site works (this does not include the works associated with the construction of the appropriate controls).
128. The proposed system for erosion, sediment and pollution control is to be effectively maintained at or above design capacity for the duration of the works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.
129. Any material that is to be stockpiled on site is to be covered and stabilised to prevent erosion or dispersal of the material.
130. The rocky cliff on the southern side of the site and the inter-tidal area is to be fully protected for the duration of the works. This includes preventing the use of any machinery, or storage of construction materials, supplies, or waste receptacles, in the area.
131. Native trees that are present on the site and adjoining land are to be retained and fully protected for the duration of the works (unless authorised for removal). In particular, works are to be undertaken with regard to protection of the root zone of trees, including preventing stockpiling of materials, parking of equipment and machinery and alteration of soil levels within the root zone.
132. Any foreshore landscaping is to be comprised of locally indigenous species and plantings above the cliff top line in the area to the South East of the site to not exceed 4m at mature height which represent the original plant communities that would have been found along the shoreline in the vicinity of the subject land. Thought should be given to presenting species which provide a buffer between the development and the established critical habitat.

Suitably prepared plans are to be provided to NSW Maritime prior to the issuing of a Part 3A permit.

133. Detailed information on the location and design of the stormwater collection and treatment system is to be provided to NSW Maritime prior to a Part 3A permit being issued.
134. The discovery of archaeological remains may require localized stop work while the remains are recorded by an archaeologist. Contractors on site are required under heritage legislation to report archaeological remains. Excavation works should comply with relevant legislation especially the 'relics' provisions of the NSW Heritage Act." In this regard the applicant must be satisfied of any requirement to obtain an excavation permit under s 140 of the Act.

The NSW National Parks and Wildlife Act 1974 (§ 90) states:

- (1) A person who, without first obtaining the consent of the Director-General, knowingly destroys, defaces or damages, or knowingly causes or permits the destruction or defacement of or damage to, an Aboriginal object or Aboriginal place is guilty of an offence against this Act.*

§21U of the Aboriginal and Torres Strait Islander Heritage Protection Act states:

- (1) A person is guilty of an offence if:*
- (a) the person:*
    - (i) does an act; and*
    - (ii) the act causes damage to, the defacing of, or interference with, an Aboriginal object or an Aboriginal place; or*
  - (b) the person does an act likely to endanger an Aboriginal object or Aboriginal place.*

*Penalty:*

- (a) if the person is a natural person—\$10,000 or imprisonment for 5 years, or both; or*
- (b) if the person is a body corporate—\$50,000.*

Unless an excavation permit has been issued by the Minister, it is an offence to disturb or excavate land knowing that archaeological evidence of either Indigenous or non-Indigenous origin may be present.

The Heritage Act 1977 (New South Wales) states in §139 that:

- (1) A person must not disturb or excavate any land knowing or have reasonable cause to suspect that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed unless the disturbance or excavation is carried out in accordance with an excavation permit.*
- (2) A person must not disturb or excavate any land on which the person has discovered or exposed a relic except in accordance with an excavation permit.*

Consent for a development, issued by the Council, does not provide an applicant with an excavation permit, nor a permit to destroy, damage or remove items of archaeological significance originating from either Indigenous or non-Indigenous cultures. This permit must be applied for independently through the Heritage Council of New South Wales.

135. If any cultural material or relics are unearthed during any stages of development, then all work should cease promptly and the metropolitan LALC and NSW NPWS are to be notified as soon as possible.

136. This approval shall expire if the development hereby permitted is not commenced within 2 years of the date hereof or any extension of such period which Council may allow in writing on an application made before such an expiry.
137. Prior to the issuing of the Construction Certificate, the payment of Developer Contribution under Section 94 of the *Environmental Planning and Assessment Act 1979* in accordance with Manly Section 94 Contributions Plan as applicable at the time of payment.
138. That the imposition of a bond in the form of a Bank Guarantee to the suggested amount of \$500,000 for breach of conditions relating to preservation of the cliff face and equipment being operated in short burst to alleviate amplification of vibrations.
139. That the Development Application be referred to Scientific Advisory Panel.

**For the Resolution:** Councillors Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison, Pedersen, Aird, Evans, Norek and Macdonald.

**Against the Resolution:** Nil.

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Environmental Services Division Report No. 10

**10 Lombard Street, Balgowlah (DA449/04)**

**Application Lodged:** 24 September 2004 Amended Plans: 21 January 2005  
**Applicant:** G Taranto  
**Owner:** G C Taranto & P A Morel  
**Estimated Cost:** \$320,000.00  
**Zoning:** Manly Local Environmental Plan, 1988 - Residential  
**Surrounding Development:** Single dwellings  
**Heritage:** Not Applicable

**SUMMARY:**

1. DEVELOPMENT CONSENT IS SOUGHT FOR ALTERATIONS AND ADDITIONS TO THE EXISTING DWELLING INCLUDING A FIRST FLOOR ADDITION AT THE REAR AND A CARPORT AT THE FRONT.
2. THE APPLICATION WAS NOTIFIED TO ALL NEIGHBOURING PROPERTIES AND FOUR (4) SUBMISSIONS RECEIVED. ONE (1) SUBMISSION WAS SUBSEQUENTLY WITHDRAWN. TWO (2) LETTERS OF SUPPORT HAVE BEEN RECEIVED.
3. THE APPLICATION WAS REFERRED TO THE BALGOWLAH PRECINCT COMMUNITY FORUM AND COMMENTS RECEIVED.
4. THE APPLICANT SUBMITTED AMENDED A SKETCH ON 21 JANUARY 2005 LOWERING THE HEIGHT OF THE ADDITION BY 500MM.
5. THE DEVELOPMENT ASSESSMENT UNIT ON 8 FEBRUARY 2005 RESOLVED TO APPROVE THE APPLICATION WITH A DEFERRED COMMENCEMENT.
6. THE APPLICATION HAS BEEN CALLED UP BY COUNCILLOR MACDONALD.
7. A SITE INSPECTION IS RECOMMENDED.
8. THE APPLICATION IS RECOMMENDED FOR DEFERRED COMMENCEMENT APPROVAL.

**SITE INSPECTION**

A site inspection was conducted on Monday 7 March 2005 of 10 Lombard Street, Balgowlah DA449/04 comprising of the following Councillors: Aird, Hay, Heasman, Lambert, Macdonald, Murphy and Norek.

**MOTION (Murphy/Morrison)**

That the Development Application No. 449/04 for alterations and additions including a new first floor addition to the rear and new carport at 10, Lombard Street, Balgowlah, be approved but shall not operate until the applicant has submitted revised plans showing:

- A1. The Applicant shall provide for a landscape screening to the western boundary to provide the required level of privacy.
- A2. The landscape plan amended to provide plantings to provide screening to the properties to the rear of the subject property. The Landscape plan is to be amended to indicate screen planting to the rear.
- A3. The height of the proposed additions reduced as per the elevations (Drawing No. 23F) submitted to Council on 21st January 2005. The submitted plans are to be amended to reflect the proposed changes. A full set of the amended architectural plans are to be submitted to Council for approval.

This consent is a "**deferred commencement**".

Evidence of Items A1 to A3 are to be submitted within a period of three (3) months pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979. The consent will then operate for a period of two (2) years.

Development Application conditions of consent upon compliance with the above matters:

1. This approval relates to drawing/plan Nos. 0257 - 20B, 21E, 22D, 23F, 24F and 25C dated June & November 2003 and received by Council on 19 July 2004 and Landscape Plan No. 0257 - 29A dated March 2004 and received by Council on 19 July 2004, and as amended by the deferred commencement conditions.
2. No portion of the proposed building or works, including gates and doors during opening and closing operations, are to encroach upon Council's road reserve or other public land.
3. Pursuant to Section 97 of the Local Government Act, 1993, Council requires, **prior to issue of the Construction Certificate, or commencement of any excavation and demolition works**, payment of a Trust Fund Deposit of \$7,500.00. The Deposit is required as security of compliance with Conditions of Consent, and as security against damage to Council property during works on the site.

**Note:** Should Council property adjoining the site be defective eg, cracked footpath, broken kerb etc., this shall be reported in writing to Council, **at least 7 days prior to the commencement of any work on site.**

4. No obstruction shall be caused to pedestrian use of Council's footpath or vehicular use of any public roadway during construction.
5. Details of the builder's name and licence number contracted to undertake the works shall be provided to Council **prior to issue of the Construction Certificate.**
6. **Prior to the commencement of any works** on the land including demolition and site preparation, provision of silt control fences shall be provided. A Sediment/Erosion Control detail shall be submitted to the Certifying Authority **prior to the issue of the Construction Certificate.**
7. Insurance must be undertaken with the contracted builder in accordance with the Home Building Act, 1997. Evidence of Insurance together with the contracted builders name and licence number must be submitted to Council **prior to issue of the Construction Certificate.**

8. Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.
9. A sign must be erected on the subject site in a prominent position stating that unauthorised entry is prohibited and giving details of the name of the builder or the person responsible for the site and 24 hour contact details. The sign is to have dimensions of approximately 500mm x 400mm.

Note: The sign is not required if the building on the site is to remain occupied during the course of the building works.

10. All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans with certification being submitted to the Principal Certifying Authority during construction from a registered surveyor certifying ground and finished ridge levels.
11. 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 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 that you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.
12. Four (4) certified copies of the Structural Engineer's details in respect of all reinforced concrete, structural steel support construction and any proposed retaining walls shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**
13. The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in accordance with AS3740. Certification is to be provided to the Principal Certifying Authority from a licenced applicator prior to the fixing of any wall or floor tiles.
14. All materials and finishes of the proposed additions are to match, as closely as possible the material and finish of the existing building.
15. The implementation of adequate care during demolition/ excavation/ building/ construction to ensure that no damage is caused to any adjoining properties.
16. Prior to excavation, applicants should contact the various utility providers to determine the position of any underground services.
17. 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.
18. The carport is not to be enclosed on any elevation (including enclosure by the installation of roller doors or the like) **without obtaining prior development approval from Council.**
19. Four (4) Architectural drawings consistent with the development consent and associated specifications are to be submitted to Council/Accredited Certifier **prior to the issue of the Construction Certificate.**
20. All external cladding and trim of the approved building shall be of a non reflective nature. Details of such finishes shall be **submitted with the Construction Certificate**



**Application.**

21. Roofwaters and surface stormwaters from paved areas is to be conveyed by pipeline to Council's street gutter.
22. All demolition is to be carried out in accordance with AS2601-1991.
23. Asbestos cement sheeting must be removed in accordance with the requirements of the WorkCover Authority.
24. Care shall be taken to prevent any damage to adjoining buildings.
25. An automatic fire detection and alarm system shall be installed in the proposed dwelling in accordance with the requirements of Part 3.7.2 of the Building Code of Australia 1996 - Housing Provisions.
26. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
27. No building materials may be stored on the road reserve without separate approval from Council.
28. No existing street trees shall be removed without Council approval. Where such approval is granted, the trees shall be replaced at full cost by the applicant with super advanced trees of a species nominated by Council's relevant officer.
29. Landscaping is to be carried out in accordance with the approved Landscape Plan submitted in conjunction with the Development Application. Evidence of an agreement for the maintenance of all plants for a period of 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.**
30. The felling, lopping, topping, ringbarking, wilful destruction or removal of any tree or trees unless in conformity with this approval or subsequent approval is prohibited.
31. No tree other than on land identified for the construction of buildings and works as shown on the building plan shall be felled, lopped, topped, ringbarked or otherwise wilfully destroyed or removed without the approval of Council.
32. Landscaping being provided in accordance with the approved Landscaping Plan and maintained in accordance with that plan at all times.
33. Trees and shrubs liable to damage are to be protected with suitable temporary enclosures for the duration of the works. These enclosures shall only be removed when directed by the Principal Certifying Authority.

The enclosures are to be constructed out of F62 reinforcing mesh 1800mm high wired to 2400mm long star pickets, driven 600mm into the ground, spaced 1800mm apart at a minimum distance of 1000mm from the tree trunk.

34. Precautions shall be taken when working near trees to be retained including the following:
  - do not store harmful or bulk materials or spoil under or near trees
  - prevent damage to bark and root system
  - do not use mechanical methods to excavate within root zones
  - do not add or remove topsoil from under the drip line
  - do not compact ground under the drip line.

35. Any ancillary light fittings fitted to the exterior of the building are to be shielded or mounted in a position to minimise glare to adjoining properties.
36. All lights used to illuminate the exterior of the building, including the proposed deck at the rear, shall be positioned and/or fitted with cut off luminaries (baffles) so as to prevent the emission of direct light onto adjoining properties.
37. Any future structures to be erected on the site shall be the subject of a Development Application and Construction Certificate Application.
38. A Construction Certificate Application is required to be submitted to and issued by the Principal Certifying Authority **prior to any building works being carried out on site.**
39. The works require the following inspection/certification during the course of construction:-
  - Silt control fences
  - Footing inspection - trench and steel
  - Framework inspection x 2
  - Wet area moisture barrier
  - Drainage inspection
  - Landscaping inspection
  - Final inspection

The cost of these inspections by Council is \$603.00 (being \$70.00 per inspection and \$113.00 for Final inspection inclusive of GST). **Should you require Council to undertake the inspection/certification, then payment is required prior to the first inspection. Inspection appointments can be made by contacting the Development Assessment Unit on 9976 1573 or 9976 1587.**

At least 24 hours notice should be given for a request for an inspection and submission of the relevant inspection card. Any additional inspection required as a result of incomplete works will incur a fee of \$80.00.

40. An Occupation Certificate is to be issued by the Principal Certifying Authority **prior to occupation of the development.**
41. Roof and framing including provision for tie downs, bracing and fixings are to be designed by a practising Structural Engineer. The Engineer is to specify appropriate wind category relating to the site terrain, house design and height of the structure, with details being submitted to the Principal Certifying Authority **prior to the commencement of framework.**
42. The capacity and effectiveness of erosion and sediment control devices must be maintained to Council's satisfaction at all times.
43. Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted.
44. Building operations such as brickcutting, 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.
45. All disturbed areas shall be stabilised against erosion to Council's satisfaction within 14 days of completion, and prior to removal of sediment controls.
46. The applicant and/or builder must prior to the commencement of work, install at the periphery of the site, measures to control sedimentation and the possible erosion of the

land.

The measures must include:-

- (i) siltation fencing;
- (ii) protection of the public stormwater system; and
- (iii) site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.

47. Building or construction work must be confined to the hours between 7.00am to 6.00pm, Monday to Friday and 7.00am to 1.00pm, Saturday, with a total exclusion of such work on Public Holidays and Sundays. Non-offensive works where power operated plant is not used and including setting out, surveying, plumbing, electrical installation, tiling, internal timber or fibrous plaster fixing, glazing, cleaning down brickwork, painting, building or site cleaning by hand shovel and site landscaping, is permitted between the hours of 1.00pm to 4.00pm Saturdays.

Note: That the Protection of the Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.

48. Details of the method of termite protection which will provide whole of building protection, inclusive of structural and non-structural elements, shall be submitted to the Principal Certifying Authority **prior to issue of the Construction Certificate**. Attention is drawn to the provisions of Australian Standard 3660.1 "Protection of Buildings from Subterranean Termites - New Buildings" and to Council's Code for the "Protection of Buildings Against Termite Attack".
49. **Prior to issue of the Occupation Certificate**, a durable termite protection notice shall be permanently fixed to the building in a prominent location detailing the form of termite protection which has been used in accordance with Council's Code for the "Protection of Buildings Against Termite Attack".
50. The public footways and roadways adjacent to the site shall be maintained at all times during the course of the work in a safe condition.
51. The proposed carport is not to be screened to allow an additional vehicle to be parked in tandem at the rear, if required. The second position should however be paved with grass-crete and not paved. Plans are to be amended accordingly, **prior to the issue of Construction Certificate**.
52. This approval shall expire if the development hereby permitted is not commenced within 2 years of the date hereof or any extension of such period which Council may allow in writing on an application made before such an expiry.
53. That a 1.6m high lattice privacy screen be installed on the western side of the top deck off bedroom 3.

**AMENDMENT: (Macdonald/Aird)**

That the Development Application No. 449/04 for alterations and additions including a new first floor addition to the rear and new carport at 10, Lombard Street, Balgowlah, be refused due to:

- \* overdevelopment of the site
- \* breach of FSR
- \* breach of open space policy
- \* front setback issues
- \* overshadowing of neighbouring properties.

**For the Amendment:** Councillors Pedersen, Aird and Macdonald.

**Against the Amendment:** Councillors Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison,

Evans and Norek.

The **Amendment** was declared **Lost**.

**RESOLVED: (Murphy/Morrison)**

That the Development Application No. 449/04 for alterations and additions including a new first floor addition to the rear and new carport at 10, Lombard Street, Balgowlah, be approved but shall not operate until the applicant has submitted revised plans showing:

- A1. The Applicant shall provide for a landscape screening to the western boundary to provide the required level of privacy.
- A2. The landscape plan amended to provide plantings to provide screening to the properties to the rear of the subject property. The Landscape plan is to be amended to indicate screen planting to the rear.
- A3. The height of the proposed additions reduced as per the elevations (Drawing No. 23F) submitted to Council on 21st January 2005. The submitted plans are to be amended to reflect the proposed changes. A full set of the amended architectural plans are to be submitted to Council for approval.

This consent is a "**deferred commencement**".

Evidence of Items A1 to A3 are to be submitted within a period of three (3) months pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979. The consent will then operate for a period of two (2) years.

Development Application conditions of consent upon compliance with the above matters:

1. This approval relates to drawing/plan Nos. 0257 - 20B, 21E, 22D, 23F, 24F and 25C dated June & November 2003 and received by Council on 19 July 2004 and Landscape Plan No. 0257 - 29A dated March 2004 and received by Council on 19 July 2004, and as amended by the deferred commencement conditions.
2. No portion of the proposed building or works, including gates and doors during opening and closing operations, are to encroach upon Council's road reserve or other public land.
3. Pursuant to Section 97 of the Local Government Act, 1993, Council requires, **prior to issue of the Construction Certificate, or commencement of any excavation and demolition works**, payment of a Trust Fund Deposit of \$7,500.00. The Deposit is required as security of compliance with Conditions of Consent, and as security against damage to Council property during works on the site.

**Note:** Should Council property adjoining the site be defective eg, cracked footpath, broken kerb etc., this shall be reported in writing to Council, **at least 7 days prior to the commencement of any work on site.**

4. No obstruction shall be caused to pedestrian use of Council's footpath or vehicular use of any public roadway during construction.
5. Details of the builder's name and licence number contracted to undertake the works shall be provided to Council **prior to issue of the Construction Certificate.**
6. **Prior to the commencement of any works** on the land including demolition and site preparation, provision of silt control fences shall be provided. A Sediment/Erosion Control detail shall be submitted to the Certifying Authority **prior to the issue of the Construction Certificate.**
7. Insurance must be undertaken with the contracted builder in accordance with the Home

Building Act, 1997. Evidence of Insurance together with the contracted builders name and licence number must be submitted to Council **prior to issue of the Construction Certificate.**

8. Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.
9. A sign must be erected on the subject site in a prominent position stating that unauthorised entry is prohibited and giving details of the name of the builder or the person responsible for the site and 24 hour contact details. The sign is to have dimensions of approximately 500mm x 400mm.

Note: The sign is not required if the building on the site is to remain occupied during the course of the building works.

10. All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans with certification being submitted to the Principal Certifying Authority during construction from a registered surveyor certifying ground and finished ridge levels.
11. 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 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 that you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.
12. Four (4) certified copies of the Structural Engineer's details in respect of all reinforced concrete, structural steel support construction and any proposed retaining walls shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**
13. The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in accordance with AS3740. Certification is to be provided to the Principal Certifying Authority from a licenced applicator prior to the fixing of any wall or floor tiles.
14. All materials and finishes of the proposed additions are to match, as closely as possible the material and finish of the existing building.
15. The implementation of adequate care during demolition/ excavation/ building/ construction to ensure that no damage is caused to any adjoining properties.
16. Prior to excavation, applicants should contact the various utility providers to determine the position of any underground services.
17. 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.
18. The carport is not to be enclosed on any elevation (including enclosure by the installation of roller doors or the like) **without obtaining prior development approval from Council.**
19. Four (4) Architectural drawings consistent with the development consent and associated

specifications are to be submitted to Council/Accredited Certifier **prior to the issue of the Construction Certificate.**

20. All external cladding and trim of the approved building shall be of a non reflective nature. Details of such finishes shall be **submitted with the Construction Certificate Application.**
21. Roofwaters and surface stormwaters from paved areas is to be conveyed by pipeline to Council's street gutter.
22. All demolition is to be carried out in accordance with AS2601-1991.
23. Asbestos cement sheeting must be removed in accordance with the requirements of the WorkCover Authority.
24. Care shall be taken to prevent any damage to adjoining buildings.
25. An automatic fire detection and alarm system shall be installed in the proposed dwelling in accordance with the requirements of Part 3.7.2 of the Building Code of Australia 1996 - Housing Provisions.
26. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
27. No building materials may be stored on the road reserve without separate approval from Council.
28. No existing street trees shall be removed without Council approval. Where such approval is granted, the trees shall be replaced at full cost by the applicant with super advanced trees of a species nominated by Council's relevant officer.
29. Landscaping is to be carried out in accordance with the approved Landscape Plan submitted in conjunction with the Development Application. Evidence of an agreement for the maintenance of all plants for a period of 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.**
30. The felling, lopping, topping, ringbarking, wilful destruction or removal of any tree or trees unless in conformity with this approval or subsequent approval is prohibited.
31. No tree other than on land identified for the construction of buildings and works as shown on the building plan shall be felled, lopped, topped, ringbarked or otherwise wilfully destroyed or removed without the approval of Council.
32. Landscaping being provided in accordance with the approved Landscaping Plan and maintained in accordance with that plan at all times.
33. Trees and shrubs liable to damage are to be protected with suitable temporary enclosures for the duration of the works. These enclosures shall only be removed when directed by the Principal Certifying Authority.

The enclosures are to be constructed out of F62 reinforcing mesh 1800mm high wired to 2400mm long star pickets, driven 600mm into the ground, spaced 1800mm apart at a minimum distance of 1000mm from the tree trunk.

34. Precautions shall be taken when working near trees to be retained including the following:
- do not store harmful or bulk materials or spoil under or near trees
  - prevent damage to bark and root system
  - do not use mechanical methods to excavate within root zones
  - do not add or remove topsoil from under the drip line
  - do not compact ground under the drip line.
35. Any ancillary light fittings fitted to the exterior of the building are to be shielded or mounted in a position to minimise glare to adjoining properties.
36. All lights used to illuminate the exterior of the building, including the proposed deck at the rear, shall be positioned and/or fitted with cut off luminaries (baffles) so as to prevent the emission of direct light onto adjoining properties.
37. Any future structures to be erected on the site shall be the subject of a Development Application and Construction Certificate Application.
38. A Construction Certificate Application is required to be submitted to and issued by the Principal Certifying Authority **prior to any building works being carried out on site.**
39. The works require the following inspection/certification during the course of construction:-
- Silt control fences
  - Footing inspection - trench and steel
  - Framework inspection x 2
  - Wet area moisture barrier
  - Drainage inspection
  - Landscaping inspection
  - Final inspection

The cost of these inspections by Council is \$603.00 (being \$70.00 per inspection and \$113.00 for Final inspection inclusive of GST). **Should you require Council to undertake the inspection/certification, then payment is required prior to the first inspection. Inspection appointments can be made by contacting the Development Assessment Unit on 9976 1573 or 9976 1587.**

At least 24 hours notice should be given for a request for an inspection and submission of the relevant inspection card. Any additional inspection required as a result of incomplete works will incur a fee of \$80.00.

40. An Occupation Certificate is to be issued by the Principal Certifying Authority **prior to occupation of the development.**
41. Roof and framing including provision for tie downs, bracing and fixings are to be designed by a practising Structural Engineer. The Engineer is to specify appropriate wind category relating to the site terrain, house design and height of the structure, with details being submitted to the Principal Certifying Authority **prior to the commencement of framework.**
42. The capacity and effectiveness of erosion and sediment control devices must be maintained to Council's satisfaction at all times.
43. Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted.
44. Building operations such as brickcutting, 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.

45. All disturbed areas shall be stabilised against erosion to Council's satisfaction within 14 days of completion, and prior to removal of sediment controls.
46. The applicant and/or builder must prior to the commencement of work, install at the periphery of the site, measures to control sedimentation and the possible erosion of the land.

The measures must include:-

- (i) siltation fencing;
- (ii) protection of the public stormwater system; and
- (iii) site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.

47. Building or construction work must be confined to the hours between 7.00am to 6.00pm, Monday to Friday and 7.00am to 1.00pm, Saturday, with a total exclusion of such work on Public Holidays and Sundays. Non-offensive works where power operated plant is not used and including setting out, surveying, plumbing, electrical installation, tiling, internal timber or fibrous plaster fixing, glazing, cleaning down brickwork, painting, building or site cleaning by hand shovel and site landscaping, is permitted between the hours of 1.00pm to 4.00pm Saturdays.

Note: That the Protection of the Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.

48. Details of the method of termite protection which will provide whole of building protection, inclusive of structural and non-structural elements, shall be submitted to the Principal Certifying Authority **prior to issue of the Construction Certificate**. Attention is drawn to the provisions of Australian Standard 3660.1 "Protection of Buildings from Subterranean Termites - New Buildings" and to Council's Code for the "Protection of Buildings Against Termite Attack".
49. **Prior to issue of the Occupation Certificate**, a durable termite protection notice shall be permanently fixed to the building in a prominent location detailing the form of termite protection which has been used in accordance with Council's Code for the "Protection of Buildings Against Termite Attack".
50. The public footways and roadways adjacent to the site shall be maintained at all times during the course of the work in a safe condition.
51. The proposed carport is not to be screened to allow an additional vehicle to be parked in tandem at the rear, if required. The second position should however be paved with grass-crete and not paved. Plans are to be amended accordingly, **prior to the issue of Construction Certificate**.
52. This approval shall expire if the development hereby permitted is not commenced within 2 years of the date hereof or any extension of such period which Council may allow in writing on an application made before such an expiry.
53. That a 1.6m high lattice privacy screen be installed on the western side of the top deck off bedroom 3.

The **Motion** was put and declared **Carried**.

**For the Resolution:** Councillors Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison, Evans and Norek.



**Against the Resolution:** Councillors Pedersen, Aird and Macdonald.

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*Having previously declared an interest, His Worship, The Mayor, Councillor Dr Peter Macdonald retired from the Chamber at 9.23pm*

Environmental Services Division Report No. 11

**87-95 Balgowlah Road, Manly (DA401/04)**

**Application Lodged:** 18 August 2004  
**Applicant/ Owner:** Manly Golf Club Ltd  
**Estimated Cost:** \$8,250,000  
**Zoning:** Manly Local Environmental Plan, 1988 - Residential.  
**Surrounding Development:** Residential flat buildings and dwellings. The site is also opposite the Manly Golf Club  
**Heritage:** The site is opposite the Manly Golf Club which is listed, and is in vicinity of street tree planting in Balgowlah Road the site is also opposite the Manly Cemetery

**SUMMARY:**

1. THIS IS AN APPLICATION TO CONSTRUCT A TWO STOREY RESIDENTIAL FLAT BUILDING CONTAINING 14 THREE-BEDROOM UNITS AND 2 TWO-BEDROOM UNITS WITH BASEMENT AND ON SITE CAR PARKING FOR 32 CARS INCLUDING 4 VISITOR SPACES, AS WELL AS A BASEMENT CAR PARK ASSOCIATED WITH THE MANLY GOLF CLUB, WITH PROVISION FOR 130 CAR SPACES.
2. THE APPLICATION WAS ADVERTISED AND SUBMISSIONS RECEIVED.
3. THE APPLICATION WAS ADVERTISED AND 16 LETTERS OF OBJECTIONS RECEIVED.
4. THE APPLICATION WAS CONSIDERED BY THE IVANHOE PARK PRECINCT AND OBJECTIONS MADE.
5. THE APPLICATION WAS CONSIDERED BY THE DEVELOPMENT ASSESSMENT UNIT MEETING OF THE 1ST MARCH AND RECOMMENDED FOR APPROVAL.
6. THE MATTER IS PRESENTED TO COUNCIL AT THE REQUEST OF COUNCILLOR MACDONALD.
7. A SITE INSPECTION IS RECOMMENDED.
6. APPROVAL OF THE APPLICATION IS RECOMMENDED.

**SITE INSPECTION**

A site inspection was conducted on Monday 7 March 2005 of 87-89 Balgowlah Road, Manly DA401/04 comprising of the following Councillors: Aird, Cant, Hay, Heasman, Lambert, Macdonald, Murphy and Norek

No Recommendation

Issues arising – extent of excavation and effect on water table.

**MOTION (Hay/Daley)**

That development application 401/04 for construction of a two storey residential flat development containing 16 units with basement and on-site car parking for 32 vehicles as well as a basement car park associated with the Manly golf club, with provision for 130 spaces at 87 to 95 Balgowlah Road. Manly be approved subject to the following conditions.

1. This approval relates to Plans/Drawings DA01-08 dated July 2004 and Landscape Plan CD035702 Revision A dated 9 February, 2004 and received by Council 18 August, 2004.
2. Access in accordance with AS1428.2 shall be provided to and within the main entrance and

exit points of the development in accordance with the Manly Development Control Plan for Access.

3. A minimum of one car space for the vehicles of people with disabilities in all new or refurbished buildings which provide between 10 and 50 car parking spaces, 2 for those which provide between 50 and 100 car spaces.

The car spaces shall be identified and reserved at all times and be in the vicinity of lift or as close as possible to public areas and facilities. The car spaces shall have minimum dimensions and headroom to conform to Australian Standard AS/NZS 2890.1:2004. A notice shall be displayed at the entrance to the parking station and at each change in direction indicating the location of car spaces and the maximum headroom for vehicles. Details shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**

4. The construction of a vehicular footpath crossing is required. The design and construction shall be in accordance with Council's Policy. All works shall be carried out **prior to the issue of the Construction Certificate.**
5. The construction of a kerb layback is required. The design and construction shall be in accordance with Council's "Specification for Construction of Vehicular Crossings". The work shall be done with plain concrete. It is the responsibility of the owner, developer and builder that they understand the above specification and strictly comply with the specification. The work shall be inspected and approved by Council officers. All works shall be carried out prior to the issue of the Occupation Certificate.
6. The existing surplus vehicular crossing and/or kerb layback shall be removed and the kerb and nature strip reinstated **prior to issue of the Occupation Certificate.**
7. A long section of the driveways shall be submitted with the Construction Certificate Application. The long section is to be drawn at a scale of 1:20 and shall include Relative Levels (RL) of the road centreline, kerb, road reserve, pavement within property and garage floor. The RLs shall include the existing levels and the designed levels.
8. Pursuant to Section 97 of the Local Government Act, 1993, Council requires, **prior to issue of the Construction Certificate, or commencement of any excavation and demolition works**, payment of a Trust Fund Deposit of \$50,000. The Deposit is required as security of compliance with Conditions of Consent, and as security against damage to Council property during works on the site.

**Note:** Should Council property adjoining the site be defective eg, cracked footpath, broken kerb etc., this shall be reported in writing to Council, **at least 7 days prior to the commencement of any work on site.**

9. No obstruction shall be caused to pedestrian use of Council's footpath or vehicular use of any public roadway during construction.
10. The applicant is to notify Council at least 48 hours before commencement of works on any Council road so as to enable Council to supervise the carrying out of the works.
11. Any adjustment to the public utility service is to be carried out in compliance with their standards and the cost is to be borne by the applicant.
12. Details of the builder's name and licence number contracted to undertake the works shall be provided to Council **prior to issue of the Construction Certificate.**
13. Insurance must be undertaken with the contracted builder in accordance with the Home

Building Act, 1997. Evidence of Insurance together with the contracted builders name and licence number must be submitted to Council **prior to issue of the Construction Certificate.**

14. Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.
15. Retaining walls being constructed in conjunction with excavations with such work being in accordance with structural engineer's details. Certification of compliance with the structural detail during construction shall be submitted to the Principal Certifying Authority.
16. 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.**
17. A sign must be erected on the subject site in a prominent position stating that unauthorised entry is prohibited and giving details of the name of the builder or the person responsible for the site and 24 hour contact details. The sign is to have dimensions of approximately 500mm x 400mm.

Note: The sign is not required if the building on the site is to remain occupied during the course of the building works.

18. All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans with certification being submitted to the Principal Certifying Authority during construction from a registered surveyor certifying ground and finished ridge levels.
19. No portion of the proposed building is to encroach onto a Public Road or Reserve, except as may be permitted by the Local Government Act 1993.
20. 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 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 that you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.
21. Four (4) certified copies of the Structural Engineer's details in respect to the structural details of the proposed building shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**
22. Four (4) certified copies of the Structural Engineer's details in respect of all reinforced concrete, structural steel support construction and any proposed retaining walls shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**
23. Where any excavation extends below the level of the base of the footing of a building on an adjoining allotment of land, the person causing the excavation shall support the neighbouring building in accordance with the requirements of the Building Code of Australia.
24. The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in accordance with AS3740. Certification is to be provided to the Principal Certifying Authority

from a licenced applicator prior to the fixing of any wall or floor tiles.

25. A suitable sub-surface drainage system being provided adjacent to all excavated areas and such drains being connected to an approved disposal system.
26. The implementation of adequate care during demolition/ excavation/ building/ construction to ensure that no damage is caused to any adjoining properties.
27. Prior to excavation applicants should contact the various utility providers to determine the position of any underground services.
28. In a Class 2 building containing more than 10 sole occupancy units, a closet pan and wash basin in a compartment or room at or near ground level for the use of employees must be provided in accordance with F2.1 of the Building Code of Australia. Details shall be submitted to the Principal Certifying Authority **prior to issue of the Construction Certificate**.
29. 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.
30. A Registered Surveyor's certificate identifying the location of the building on the site is to be submitted to the Principal Certifying Authority immediately upon completion of the foundations and prior to work proceeding above dampcourse level.
31. A dilapidation report in regard to adjoining properties and Council land is to be submitted to Council with the Trust Fund **Deposit prior to the issue of the Construction Certificate**.
32. Four (4) sets of Architectural and Services Specifications are to be submitted with the Construction Certificate application.
33. All external cladding and trim of the approved building shall be of a non reflective nature. Details of such finishes shall be **submitted with the Construction Certificate Application**.
34. Suitable internal or external clothes drying facilities shall be provided. Where external clothes drying facilities are provided, details of the screening of these facilities are to be incorporated in the landscape design. Details of clothes drying facilities shall be **submitted with the Construction Certificate Application**.
35. All plumbing and drainage, including sewerage drainage stacks, ventilation stacks and water service pipes shall be concealed within the building. Plumbing other than stormwater downpipes shall not be attached to the external surfaces of the building.
36. The visitor car spaces shall be accessible at all times and a sign post shall be erected at the vehicular entry point(s) of the development indicating the location of the spaces.
37. An approved water interceptor shall be provided across the driveway at the street boundary and all stormwaters shall be conveyed by underground pipe to Council's street gutter to the satisfaction of the Principal Certifying Authority.
38. The use at all times shall be conducted so that no odours or other air impurities are detectable beyond the boundaries of the premises.
39. Roofwaters and surface stormwaters from paved areas is to be conveyed by pipeline to

Council's street gutter.

40. Care shall be taken to prevent any damage to adjoining buildings.
41. A Fire Safety Schedule specifying the fire safety measures (both current and proposed) that should be implemented in the building premises shall be submitted with the Construction Certificate application, in accordance with Part 9 Clause 168 of the Environmental Planning and Assessment Regulation 2000.

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

42. The building being erected in Type B construction for a Class 2 & 7 building in accordance with the Fire Resistance Provisions of the Building Code of Australia.
43. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
44. Landscaping is to be carried out in accordance with the approved Landscape Plan submitted in conjunction with the Development Application. Evidence of an agreement for the maintenance of all plants for a period of 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.**
45. Excavation adjacent to the road boundary shall be adequately shored to support the roadway and all improvements and services within the road reserve. Protective fencing shall be provided to ensure the safety of the public.
46. All healthy trees and shrubs identified for retention on the plan must be:
- (i) Suitably marked before any development starts and be suitably protected from damage during the construction process; and
  - (ii) Retained unless their location or condition is likely to cause damage and their removal has been approved by Council.
47. All disturbed surfaces on the land resulting from the building works authorised by this approval shall be revegetated and stabilised so as to prevent any erosion either on or adjacent to the land.
48. The felling, lopping, topping, ringbarking, wilful destruction or removal of any tree or trees unless in conformity with this approval or subsequent approval is prohibited.
49. No tree other than on land identified for the construction of buildings and works as shown on the building plan shall be felled, lopped, topped, ringbarked or otherwise wilfully destroyed or removed without the approval of Council.
50. Details shall be submitted to the Principal Certifying Authority **prior to issue of the Construction Certificate** indicating the proposed method of water-proofing and drainage of the concrete slabs over which landscaping is being provided.
51. The trees to be retained are to be protected from trenching or excavation works or other construction works during the building construction stage. A security bond for \$10,000 is required to ensure that the trees are protected during the construction stage. The security bond may be in the form of a bank guarantee which must be lodged with Council **prior to issue of the Construction Certificate.**
52. Landscaping being provided in accordance with the approved Landscaping Plan and maintained in accordance with that plan at all times.

53. Trees and shrubs liable to damage are to be protected with suitable temporary enclosures for the duration of the works. These enclosures shall only be removed when directed by the Principal Certifying Authority.

The enclosures are to be constructed out of F62 reinforcing mesh 1800mm high wired to 2400mm long star pickets, driven 600mm into the ground, spaced 1800mm apart at a minimum distance of 1000mm from the tree trunk.

54. Precautions shall be taken when working near trees to be retained including the following:
- do not store harmful or bulk materials or spoil under or near trees
  - prevent damage to bark and root system
  - do not use mechanical methods to excavate within root zones
  - do not add or remove topsoil from under the drip line
  - do not compact ground under the drip line.
55. All lights used to illuminate the exterior of the buildings or site shall be positioned and/or fitted with cut off luminaries (baffles) so as to prevent the emission of direct light onto adjoining roadways and land.
56. Glare from internal lighting shall not be permitted to extend beyond the limits of the building authorised by this approval.
57. The carpark levels are to be provided with a system of mechanical ventilation in accordance with AS 1668.2 with details being submitted to the Principal Certifying Authority for approval **prior to issue of the Construction Certificate**.
58. **Prior to the commencement of any works** on the land including demolition and site preparation, provision of silt control fences shall be provided. A Sediment/Erosion Control detail shall be submitted to the Certifying Authority **prior to the issue of the Construction Certificate**.
59. **Prior to the issue of the Construction Certificate**, the applicant shall submit details of protective hoardings, fences, and lighting which are to be provided during demolition, excavation and building works in accordance with the requirements of the Department of Industrial Relations, Construction Safety Act and the WorkCover Authority.

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

60. Prior to the sale, transfer, assignment or other disposal of or leasing or parting with provision of any part of the land subject to this approval, a copy of the approval shall be given to the purchaser, transferee, assignee, leasee, occupier or other person of that part of the land.
61. All materials on site or being delivered to the site shall generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 shall be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
62. Any future structures to be erected on the site shall be the subject of a Development Application and Construction Certificate Application.
63. The applicant shall consult with Energy Australia to determine the need and location of any electrical enclosure for the development. Should an electrical enclosure be required, the location and dimensions of this structure are to be detailed prior to the issue of a Construction Certificate. In the event of Energy Australia requiring a sub-station, the

applicant shall consult with Council or its delegate with a view to dedication of the land for the sub-station as public roadway.

64. A Construction Certificate Application is required to be submitted to and issued by the Council/Accredited Certifier **prior to any building works being carried out on site.**
65. An Occupation Certificate is to be issued by the Principal Certifying Authority **prior to occupation of the development.**
66. Issue of a Compliance Certificate from the Principal Certifying Authority prior to occupation to the effect that:
  1. Required inspections have been undertaken and the work has been completed in accordance with the approved plans and specifications, the Development Consent and the Construction Certificate.
  2. Documentary evidence relative to:
    - roof trusses details
    - tie down and bracing details
    - termite protection notice
    - wet areas waterproofing certificate
    - reinforcement concrete and structural members details
    - structural engineers inspection certificate
    - survey certificate
    - floor/finished ridge level certificate
    - hydraulic consultants certificate
    - mechanical ventilation engineer's certificate
67. Payment of \$71,023. for the 16 dwellings in respect of the contribution for the provision of the public amenities and public services shall be in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979. Arrangements for such payment is to be made in accordance with Council's policy, **prior to issue of the Construction Certificate.**

**Note:** The attached yellow form is to be returned to Council with your payment of the Contribution.

68. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. **Application must be made through an authorised Water Servicing Coordinator, for details see the Sydney Water web site [www.sydneywater.com.au/customer/urban/index](http://www.sydneywater.com.au/customer/urban/index) or telephone 13 20 92.**

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact **with the Coordinator** since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the linen plan/occupation of the development.

69. 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.
70. All site waters during excavation and construction shall be contained on site in an approved manner to avoid pollutants entering into the Harbour or Council's stormwater drainage system.

71. Roof and framing including provision for tie downs, bracing and fixings are to be designed by a practising Structural Engineer. The Engineer is to specify appropriate wind category relating to the site terrain, house design and height of the structure, with details being submitted to the Principal Certifying Authority **prior to the commencement of framework.**
72. The capacity and effectiveness of erosion and sediment control devices must be maintained to Council's satisfaction at all times.
73. Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted.
74. Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
75. Drains, gutters, roadways and access ways shall be maintained free of sediment and to the satisfaction of Council. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.
76. Building operations such as brickcutting, 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.
77. All disturbed areas shall be stabilised against erosion to Council's satisfaction within 14 days of completion, and prior to removal of sediment controls.
78. Stormwater from roof areas shall be linked via a temporary downpipe to a Council approved stormwater disposal system immediately after completion of the roof area. Inspection of the building frame will not be made until this is completed to Council's satisfaction.
79. The applicant and/or builder must prior to the commencement of work, install at the periphery of the site, measures to control sedimentation and the possible erosion of the land.  
  
The measures must include:-
  - (i) siltation fencing;
  - (ii) protection of the public stormwater system; and
  - (iii) site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.
80. All electrical and telecommunication services to the site are to be provided by underground cabling, with the plans notated **prior to the issue of the Construction Certificate.**
81. Details shall be submitted to the Principal Certifying Authority indicating the method of sound proofing all roof terraces, decks and balconies **prior to issue of the Construction Certificate.**
82. No blasting is to be carried out at any time during construction of the building.
83. Building or construction work must be confined to the hours between 7.00am to 6.00pm, Monday to Friday and 7.00am to 1.00pm, Saturday, with a total exclusion of such work on Public Holidays and Sundays. Non-offensive works where power operated plant is not used and including setting out, surveying, plumbing, electrical installation, tiling, internal timber or fibrous plaster fixing, glazing, cleaning down brickwork, painting, building or site cleaning by hand shovel and site landscaping, is permitted between the hours of 1.00pm to 4.00pm Saturdays.



Note: That the Protection of the Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.

84. The operations of mechanical services are not to give rise to an offensive noise within the meaning of the Protection of the Environment Operations Act 1997.
85. In accordance with the Roads Act 1993, written consent from Council shall be obtained and shall 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.
86. The public footways and roadways adjacent to the site shall be maintained at all times during the course of the work in a safe condition.
87. This approval shall expire if the development hereby permitted is not commenced within 2 years of the date hereof or any extension of such period which Council may allow in writing on an application made before such an expiry.
88. Tree planting and landscaping is to be complimentary the new buildings is to be sympathetic to the heritage listed Golf Club House.
89. If during the course of excavation relics are found, works are to stop and an excavation permit must be obtained from the NSW Heritage Council, in accordance with the relics provisions of the Heritage Act, 1977. A copy of this permit and archaeologists report is to be submitted to Council.
90. That a report be submitted to demonstrate that Manly Golf Course has adequate disabled parking spaces and facilities.
91. That a long section of the proposed ramp from the 'Lower 82 Club Carparking level to the 'Upper B2 Club Carparking level be submitted at a scale of 1:100 to demonstrate adequate ground clearance for vehicles.
92. That the applicant demonstrate that a minimum clearance of 2.2m, clear of any services is provided in the carparks and that this clearance is maintained along the ramps. In addition, that Council be provided with information on measures to manage clearance at the entrances to the carparks.
93. That the levels for the Harland Street vehicular access and driveway to the residential carpark be provided in long section at a scale of 1:20 from the centre of the road pavement to the level section of the carpark.
94. That lighting be provided for the carparks in accordance with Australian Standard AS 1680.2.1- 1993: Interior lighting - Circulation spaces and other general areas.
95. Removal of the two redundant laybacks and driveways in Balgowlah Road.
96. Construction of one new concrete driveway, in Balgowlah Road, of minimum 6.0m width at a distance no further than 3.2m from the western side boundary of the site.
97. A system of onsite stormwater detention shall be provided within the property in accordance with Council's "Specification for on-site stormwater management 2003". The design and details shall be submitted with the Construction Certificate Application and be approved by the Principal Certifying Authority **prior to the issue of the Construction**

**Certificate.**

The specification can be downloaded from Council's web site [www.manly.nsw.gov.au](http://www.manly.nsw.gov.au) free of charge or a hardcopy can be purchased from Council.

98. On completion of the drainage works the applicant is required to submit work as executed drawings of the on site stormwater detention system. The work as executed drawings shall be certified by a Chartered Professional Engineer and submitted to Council prior to the Occupation Certificate is issued.
99. A positive covenant and the restriction on the use of land shall be imposed over the area of land affected by on site stormwater absorption! detention system. The standard wording of the positive covenant shall be obtained from Council's "Specification for on-site Stormwater Management 2003" (Appendix A). The positive covenant shall be imposed prior to the release of the Trust Fund Deposit.
100. The construction of a vehicular footpath crossings and kerb layback is required. The design and construction shall be in accordance with Council's "Specification for Construction of Vehicular Crossings". The work shall be done with plain concrete. It is the responsibility of the owner, developer and builder that they understand the above specification and strictly comply with the specification. The work shall be inspected and approved by Council officers. All works shall be carried out prior to issue of the Occupation Certificate.
101. A 1.2 metre wide concrete footpath shall be constructed along the entire frontage of the property at Harland Street. The full cost to be borne by the applicant.
102. The existing levels of the road *reserve* shall be maintained.
103. If dewatering is required the *applicant* shall submit a dewatering plan to control the quality and quantity of the water discharged from the proposed development. The dewatering plan shall be approved by council prior the issue of the Construction Certificate.

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

- a) Ground water or other water to be pumped from the site into Council's stormwater system must be sampled and analysed by a NATA certified laboratory or Manly Council for Compliance with ANZECC Water Quality Guidelines.
- b) If tested by a NATA certified laboratory, the certificate of analysis issued by the laboratory must be forwarded to Manly Council as the appropriate regulatory authority under the *Protection of the Environment Operations Act 1997*, prior to the commencement of de-watering activities.
- c) Council will grant approval to commence site de-watering to the stormwater based on the water quality results received.
- d) It is the responsibility of the applicant to ensure that during de-watering activities, the capacity of the stormwater system is not exceeded, that there are no issues associated with erosion or scouring due to the volume of water pumped.
- e) Turbidity readings must not at any time exceed the ANZECC recommended 50ppm (parts per million) for receiving waters.
- f) Also the developer must contact Department of Infrastructure, Planning and Natural

Resources and comply with any of their requirements.

- g) Weekly monitoring of electrical conductivity shall be undertaken by the developer and forward to Manly Council. If electrical conductivity readings elevate above that from when dewatering first commenced council reserves the right to order a cessation of dewatering until groundwater has replenished.
104. The temporary carpark referred to in correspondence, being on the practice area accessed off Balgowlah Road is to be constructed and operational prior to any works taking place on site. The practice area is to be reinstated prior to the issue of an Occupation Certificate.
105. That the applicant provide to Council for approval a subsurface hydrology report of the site with a view to determining the most appropriate strategy for dealing with the run-off, in particular in relation to its reuse, recharge or disposal and as such be submitted to Council .

**AMENDMENT: (Aird/Murphy)**

That development application 401/04 for construction of a two storey residential flat development containing 16 units with basement and on-site car parking for 32 vehicles as well as a basement car park associated with the Manly golf club, with provision for 130 spaces at 87 to 95 Balgowlah Road. Manly be **deferred** for the following reasons:

- \* The application to be referred to the Scientific Advisory Panel
- \* A Traffic study be conducted
- \* A Hydrological report be provided and report from the Council Water Management Officer
- \* Further consideration of residents concerns relating to shadow diagrams and impact on the residents to the west of the development.
- \* A report be provided to Council on current activities of club including the function centre and the hours of operation, membership numbers and adequacy of current carparking for the club.
- \* Location of the garbage area in the development to be commented on by Council's Waste Service staff.
- \* That the application needs to brought more into compliance.
- \* That the position of the carpark exit be reconsidered with an option to be moved to the centre of the carpark.
- \* That the underpass walkway between the clubhouse and the carpark be investigated.
- \* That the application be referred for urban design comments.

**For the Resolution:** Councillors Lambert, Cant, Murphy, Pedersen, Aird, Evans and Norek.  
**Against the Resolution:** Councillors Hay, Heasman, Daley and Morrison.

**RESOLVED: (Aird/Murphy)**

That development application 401/04 for construction of a two storey residential flat development containing 16 units with basement and on-site car parking for 32 vehicles as well as a basement car park associated with the Manly golf club, with provision for 130 spaces at 87 to 95 Balgowlah Road. Manly be **deferred** for the following reasons:

- \* The application to be referred to the Scientific Advisory Panel
- \* A Traffic study be conducted
- \* A Hydrological report be provided and report from the Council Water Management Officer
- \* Further consideration of residents concerns relating to shadow diagrams and impact on the residents to the west of the development.
- \* A report be provided to Council on current activities of club including the function centre and the hours of operation, membership numbers and adequacy of current carparking for the club.

- \* Location of the garbage area in the development to be commented on by Council's Waste Service staff.
- \* That the application needs to be brought more into compliance.
- \* That the position of the carpark exit be reconsidered with an option to be moved to the centre of the carpark.
- \* That the underpass walkway between the clubhouse and the carpark be investigated.
- \* That the application be referred for urban design comments.

**For the Resolution:** Councillors Lambert, Cant, Murphy, Pedersen, Aird, Evans and Norek.

**Against the Resolution:** Councillors Hay, Heasman, Daley and Morrison.

*His Worship, The Mayor, Councillor Dr Peter Macdonald* re-entered the Chamber at 10.44pm

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Environmental Services Division Report No. 12

**111 Bower Street, Manly**

**Section 82A Review of Determination (DA455/02)**

<b><u>Application Lodged:</u></b>	21 December 2004
<b><u>Applicant:</u></b>	Mellor Gray Architects
<b><u>Owner:</u></b>	Wayne Blackley
<b><u>Estimated Cost:</u></b>	N/A for Review of Determination
<b><u>Zoning:</u></b>	Manly Local Environmental Plan, 1988 - Residential
<b><u>Surrounding Development:</u></b>	1 & 2 storey semi-detached and detached dwelling houses.
<b><u>Heritage:</u></b>	No.
<b><u>Foreshore Scenic Protection</u></b>	Yes

**SUMMARY:**

1. 26 NOVEMBER 2003 - ALTERATIONS AND GROUND AND 1<sup>ST</sup> STOREY ADDITIONS TO A SEMI DETACHED COTTAGE DWELLING WERE APPROVED BY COUNCIL.
2. AS STATED ON THE APPROVED PLANS, MATERIALS AND FINISHES FOR THE REAR ADDITIONS COMPRISE PART RENDERED AND PAINTED WALLS, AND PART FACE BRICKWORK TO MATCH THE EXISTING DWELLING.
3. 21 SEPTEMBER 2004 COUNCIL RECEIVED COMPLAINTS REGARDING NON CONFORMITY WITH THE APPROVAL INCLUDING EXTERNAL WALL FINISHES.
4. FOLLOWING INVESTIGATION OF THE COMPLAINTS BY COUNCIL'S COMPLIANCE STAFF THE APPLICANT LODGED AN APPLICATION UNDER SECTION 96 OF THE EP&A ACT ON 29 SEPTEMBER 2004.
5. THE SECTION 96 APPLICATION WAS NOTIFIED TO ADJOINING AND NEARBY PROPERTY OWNERS WITH 3 SUBMISSIONS RECEIVED
6. THE SECTION 96 APPLICATION WAS REFUSED ON 18 NOVEMBER 2004.
7. ON 14 DECEMBER 2004 A NOTICE OF INTENTION TO SERVE AN ORDER ISSUED TO THE APPLICANT BY THE PRIVATE CERTIFIER, BEING TO REMOVE UNAUTHORISED CEMENT RENDER.
8. ON 21 DECEMBER 2004 THE APPLICANT LODGED A SECTION 82A APPLICATION FOR REVIEW OF DETERMINATION.
9. THE APPLICATION IS PRESENTED TO THE LAND USE MANAGEMENT MEETING BY REQUEST OF COUNCILLOR MACDONALD.
10. A SITE INSPECTION IS RECOMMENDED.
11. THE APPLICATION IS RECOMMENDED FOR REFUSAL.

**SITE INSPECTION**

A site inspection was conducted on Monday 7 March 2005 of 111 Bower Street, Manly DA455/02 comprising of the following Councillors: Aird, Cant, Heasman, Lambert, Macdonald, Murphy and Norek

**Inspection Party Recommendation:**

That the application to modify Development Consent No. 455/02 for alterations and additions to the dwelling at No. 111 Bower Street, Manly, be approved with condition 1 amended as follows:

This approval relates to drawings/plans No. 1158 CC-100 issue A dated 15.10.03 and CC-101 and 200 issue B dated 24.11.03 and received by Council 24.11.03 as amended by drawings/plans No. 1158-200 issue E dated 29.9.04 and received by Council 1.10.04.

B. That the matter of works undertaken with the prior approval of Council be duly recorded on Council's file.

**MOTION: (Macdonald/Heasman)**

That the application to modify Development Consent No. 455/02 for alterations and additions to the dwelling at No.111 Bower Street, Manly, be approved with condition 1 amended as follows:

This approval relates to drawings/plans No. 1158 CC-100 issue A dated 15.10.03 and CC-101 and 200 issue B dated 24.11.03 and received by Council 24.11.03 as amended by drawings/plans No. 1158-200 issue E dated 29.9.04 and received by Council 1.10.04.

B. That the matter of works undertaken with the prior approval of Council be duly recorded on Council's file.

**AMENDMENT: (Cant/Norek)**

That Council confirm the previous **refusal** of the modification application in respect of Development Consent No.455/02 for alterations and additions to the dwelling at No.111 Bower Street with reasons as follows;

1. The proposal is contrary to the existing building and is likely to have an adverse impact on the integrity of the building having regard to Section 79C(1)(c) of the Environmental Planning & Assessment Act 1979.
2. The proposed modification is contrary to the existing streetscape that contains listed heritage items, having regard to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979.
3. The proposed modification will detract from the existing character and quality of the surrounding developments and will also have an adverse impact on the significance of the street, having regard to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979.
4. The issues raised by the objectors having regard to Section 79C(1)(d) of the Environmental Planning & Assessment Act 1979.

**For the Amendment:** Councillors Cant, Aird, Evans and Norek.

**Against the Amendment:** Councillors Hay, Heasman, Lambert, Murphy, Daley, Pedersen and Macdonald.

The **Amendment** was declared **Lost**.

*Councillor Morrison was not present in the Chamber when the vote was taken.*

**RESOLVED: (Macdonald/Heasman)**

That the application to modify Development Consent No. 455/02 for alterations and additions to the dwelling at No.111 Bower Street, Manly, be approved with condition 1 amended as follows:

This approval relates to drawings/plans No. 1158 CC-100 issue A dated 15.10.03 and CC-101 and 200 issue B dated 24.11.03 and received by Council 24.11.03 as amended by drawings/plans No. 1158-200 issue E dated 29.9.04 and received by Council 1.10.04.

B. That the matter of works undertaken with the prior approval of Council be duly recorded on Council's file.

**For the Resolution:** Councillors Hay, Heasman, Lambert, Murphy, Daley, Pedersen and Macdonald.

**Against the Resolution:** Councillors Cant, Aird, Evans and Norek.

*Councillor Morrison was not present in the Chamber when the vote was taken.*

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Environmental Services Division Report No. 13

**33 Peacock Street, Seaforth (DA519/04)**

<b><u>Application Lodged:</u></b>	18/11/04
<b><u>Applicant:</u></b>	Morris Bray Architects
<b><u>Owner:</u></b>	G and S Cerezo
<b><u>Estimated Cost:</u></b>	\$400,000
<b><u>Zoning:</u></b>	Manly Local Environmental Plan, 1988 - Residential
<b><u>Surrounding Development:</u></b>	Single dwelling houses
<b><u>Heritage:</u></b>	Nil

**SUMMARY:**

1. AN APPLICATION IS MADE FOR ALTERATIONS AND ADDITIONS TO A DWELLING.
2. THE APPLICATION WAS NOTIFIED IN ACCORDANCE WITH COUNCIL'S NOTIFICATION DCP AND SUBMISSIONS ARE RECEIVED.
3. THE APPLICATION WAS REFERRED TO THE LOCAL COMMUNITY PRECINCT FORUM AND NO COMMENT WAS RECEIVED.
4. THE APPLICATION IS ASSESSED PURSUANT TO SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 INCLUDING COUNCIL'S RELEVANT PLANS AND POLICIES.
5. THE APPLICATION IS REPORTED TO THE DEVELOPMENT ASSESSMENT UNIT ON 2 FEBRUARY 2005 AND RECOMMENDED FOR APPROVAL SUBJECT TO CONDITIONS INCLUDING AMENDED PLANS.
6. THE DEVELOPMENT APPLICATION IS PRESENTED TO COUNCIL'S LAND USE MANAGEMENT AT THE REQUEST OF COUNCILLOR MORRISON.
7. A SITE INSPECTION IS RECOMMENDED.
8. THE APPLICATION IS RECOMMENDED FOR APPROVAL.

**SITE INSPECTION**

A site inspection was conducted on Monday 7 March 2005 of 33 Peacock Street, Seaforth DA519/04 comprising of the following Councillors: Aird, Hay, Heasman, Lambert, Macdonald, Murphy and Norek

**Inspection Party Recommendation:**

Staff recommendation for Approval with the following revisions to conditions 1,7 and 11 as follows:

## Condition 1.

1. This approval relates to drawings/plans Nos. DA01, DA03, DA04, DA05, DA06, DA07, DA08, DA09 dated 5 August, **2004** and received by Council on the 18 October, **2004**.

## Condition 7

7. The eastern side wall 1250mm from the boundary is to be brought **fully into compliance** with the DCP by either an increased setback to comply with the average set back requirement along the wall length or alternatively a reduction in the height of this same wall based on an average setback of a 1250mm. This reduction in either height or setback is to address objectives and planning criteria in respect of setback, height and fsr/bulk and also having regard to the dominance of this eastern side elevation in respect of the winged roof design and proposed extent of enclosure of the side entrance path. Details are to be to the satisfaction of the Accredited Authority prior to the issue of the Construction Certificate.

## Condition 11

11. The proposed pool and surrounding pool concourse and boundary retaining/ masonry walls are to be lowered by 1m to better comply with performance criteria and objectives for pools particularly regarding its height and setback and the height of boundary walls. **The rear boundary wall being a height of 1m above the adjacent driveway level.** Details are to be to the satisfaction of the Accredited Authority prior to the issue of the Construction Certificate.

Note: in relation to condition 4, concern was raised in respect of overlooking of the adjoining property. This could be addressed in a number of ways for example, provision of a high light window 1.6m above floor level, external privacy screen, or deletion of the window and replacement with skylight or similar. It is considered a highlight window would be the preferred approach with condition 4 amended as follows:

## Condition 4

4. The dining room window in the eastern elevation at first floor level is to be a highlight style having a minimum sill height of 1.6m to minimise privacy issues to the neighbours below. Details are to be to the satisfaction of the Accredited Authority prior to the issue of the Construction Certificate.

**MOTION: (Macdonald/Cant)**

That the Development Application No. 519/04 for "Alterations and Additions to Dwelling including Additional Storey and New Pool" at 33 Peacock Street, Seaforth be approved with the following conditions:

1. This approval relates to drawings/plans Nos. DA01, DA03, DA04, DA05, DA06, DA07, DA08, DA09 dated 5 August, **2004** and received by Council on the 18 October, **2004**.
2. The ROW is to remain unobstructed during the course of the site and building works. In particular the site management plan must provide for adequate access onto the site for all construction and delivery vehicles without obstructing other beneficiaries of the ROW. Details are to be to the satisfaction of the Accredited Authority prior to the issue of the Construction Certificate.
3. The overall height of the front roof plane is to be lowered by a minimum 300mm in

accordance with DCP wall height criteria and objective (particularly overshadowing) and also having regard to the DCP in respect of fsr (bulk) and side setback objectives. Details are to be to the satisfaction of the Accredited Authority prior to the issue of the Construction Certificate.

4. The dining room window in the eastern elevation at first floor level is to be a highlight style having a minimum sill height of 1.6m to minimise privacy issues to the neighbours below. Details are to be to the satisfaction of the Accredited Authority prior to the issue of the Construction Certificate.
5. The northern elevation of the living room (first floor) is to be further setback from the front boundary by 1000mm to reduced to extent of wall in excess of the DCP wall height criteria and objective (particularly overshadowing) and also having regard to the DCP in respect of fsr (bulk) and side setback objectives. Details are to be to the satisfaction of the Accredited Authority prior to the issue of the Construction Certificate
6. The first floor deck at the rear of the dwelling is to be screened at both the eastern and the western end to effectively minimise overlooking down into the neighbour's rear yard. This may be achieved by either the provision of a 1m wide planter bed or a screen 1.6m high. Details are to be to the satisfaction of the Accredited Authority prior to the issue of the Construction Certificate.
7. The eastern side wall 1250mm from the boundary is to be brought **fully into compliance** with the DCP by either an increased setback to comply with the average set back requirement along the wall length or alternatively a reduction in the height of this same wall based on an average setback of a 1250mm. This reduction in either height or setback is to address objectives and planning criteria in respect of setback, height and fsr/bulk and also having regard to the dominance of this eastern side elevation in respect of the winged roof design and proposed extent of enclosure of the side entrance path. Details are to be to the satisfaction of the Accredited Authority prior to the issue of the Construction Certificate.
8. The front pergola (first floor) is not to protrude past the face of the ground floor wall. Details are to be to the satisfaction of the Accredited Authority prior to the issue of the Construction Certificate
9. The proposed eaves overhang is to be reduced to 200mm to the eastern and western side of the living room. Details are to be to the satisfaction of the Accredited Authority prior to the issue of the Construction Certificate.
10. The proposed earth mounding indicated on by contour lines on the landscaping plan is to be raised a further 500mm. The extent of mounding is to minimise the streetscape appearance of the development as a three level structure in accordance with the DCP height and streetscape objectives. Planting around the pool is to be supplemented with additional planting and the planting identified as 'T' on the plan is also to be specified as a shrub type. Landscaping details are to be to the satisfaction of the Accredited Authority prior to the issue of the Construction Certificate.
11. The proposed pool and surrounding pool concourse and boundary retaining/ masonry walls are to be lowered by 1m to better comply with performance criteria and objectives for pools particularly regarding its height and setback and the height of boundary walls. **The rear boundary wall being a height of 1m above the adjacent driveway level.** Details are to be to the satisfaction of the Accredited Authority prior to the issue of the Construction Certificate.
12. Pursuant to Section 97 of the Local Government Act, 1993, Council requires, **prior to issue of the Construction Certificate, or commencement of any excavation and demolition works**, payment of a Trust Fund Deposit of \$7,500. The Deposit is required as security of compliance with Conditions of Consent, and as security against damage to Council



property during works on the site.

**Note:** Should Council property adjoining the site be defective eg, cracked footpath, broken kerb etc., this shall be reported in writing to Council, **at least 7 days prior to the commencement of any work on site.**

13. Any adjustment to the public utility service is to be carried out in compliance with their standards and the cost is to be borne by the applicant.
14. Details of the builder's name and licence number contracted to undertake the works shall be provided to Council **prior to issue of the Construction Certificate.**
15. Insurance must be undertaken with the contracted builder in accordance with the Home Building Act, 1997. Evidence of Insurance together with the contracted builders name and licence number must be submitted to Council **prior to issue of the Construction Certificate.**
16. Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.
17. Retaining walls being constructed in conjunction with excavations with such work being in accordance with structural engineer's details. Certification of compliance with the structural detail during construction shall be submitted to the Principal Certifying Authority.
18. All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans with certification being submitted to the Principal Certifying Authority during construction from a registered surveyor certifying ground and finished ridge levels.
19. 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 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 that you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.
20. A Certificate of Adequacy signed by a practising Structural Engineer is to be submitted to the Principal Certifying Authority in respect of the load carrying capabilities of the existing structure to support the proposed **additions prior to the issue of the Construction Certificate.**
21. Four (4) certified copies of the Structural Engineer's details in respect of all reinforced concrete, structural steel support construction and any proposed retaining walls shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate.**
22. Where any excavation extends below the level of the base of the footing of a building on an adjoining allotment of land, the person causing the excavation shall support the neighbouring building in accordance with the requirements of the Building Code of Australia.
23. The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in

- accordance with AS3740. Certification is to be provided to the Principal Certifying Authority from a licenced applicator prior to the fixing of any wall or floor tiles.
24. A suitable sub-surface drainage system being provided adjacent to all excavated areas and such drains being connected to an approved disposal system.
  25. The implementation of adequate care during demolition/ excavation/ building/ construction to ensure that no damage is caused to any adjoining properties.
  26. Prior to excavation applicants should contact the various utility providers to determine the position of any underground services.
  27. On completion of the building structure a Registered Surveyor's report is to be submitted to the Principal Certifying Authority confirming that the building has been completed in accordance with the levels as shown on the approved plan.
  28. A Registered Surveyor's certificate identifying the location of the building on the site is to be submitted to the Principal Certifying Authority immediately upon completion of the foundations and prior to work proceeding above dampcourse level.
  29. 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.
  30. Four (4) Architectural/Services Specifications are to be submitted with the Construction Certificate application **prior to the issue of the Construction Certificate.**
  31. Roofwaters and surface stormwaters from paved areas is to be conveyed by pipeline to Council's street gutter in accordance with Council's stormwater management guidelines. That the existing system under the right of way is maintained, repaired or the design amended to ensure the system is fully operable.
  32. All demolition is to be carried out in accordance with AS2601-1991.
  33. Asbestos cement sheeting must be removed in accordance with the requirements of the WorkCover Authority.
  34. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
  35. An automatic fire detection and alarm system shall be installed in the proposed dwelling in accordance with the requirements of Part 3.7.2 of the Building Code of Australia 1996 - Housing Provisions.
  36. Landscaping is to be carried out in accordance with the approved Landscape Plan submitted in conjunction with the Development Application. Evidence of an agreement for the maintenance of all plants for a period of 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.**
  37. No tree other than on land identified for the construction of buildings and works as shown on the building plan shall be felled, lopped, topped, ringbarked or otherwise willfully destroyed or removed without the approval of Council.
  38. No tree other than on land identified for the construction of buildings and works as shown on the building plan shall be felled, lopped, topped, ringbarked or otherwise willfully destroyed or removed without the approval of Council.

39. A landscaped buffer being provided along the near boundary of the development/site so as to screen/reduce the visual impact of the development. Details are to be submitted with the application for a Construction Certificate.
40. **Prior to the commencement of any works** on the land including demolition and site preparation, provision of silt control fences shall be provided. A Sediment/Erosion Control detail shall be submitted to the Certifying Authority **prior to the issue of the Construction Certificate.**
41. A Construction Certificate Application is required to be submitted to and issued by the Principal Certifying Authority **prior to any building works being carried out on site.**
42. The works require the following inspection/certification during the course of construction:-
- Silt control fences
  - Footing inspection - trench and steel
  - Reinforced concrete slab
  - Framework inspection x 2
  - Wet area moisture barrier
  - Drainage inspection
  - Driveway crossing/kerb layback
  - Swimming pool reinforcing steel inspection
  - Swimming pool safety fence inspection
  - Final inspection

The cost of these inspections by Council is \$813. (being \$70.00 per inspection and \$113.00 for Final inspection inclusive of GST). **Should you require Council to undertake the inspection/certification, then payment is required prior to the first inspection. Inspection appointments can be made by contacting the Development Assessment Unit on 9976 1573 or 9976 1587.**

At least 24 hours notice should be given for a request for an inspection and submission of the relevant inspection card. Any additional inspection required as a result of incomplete works will incur a fee of \$80.00.

43. An Occupation Certificate is to be issued by the Principal Certifying Authority **prior to occupation of the development.**
44. 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.
45. De-watering from the excavation or construction site must comply with the Protection of the Environment Operations Act 1997 and the following:
- a) Ground water or other water to be pumped from the site into council's stormwater system must be sampled and analysed by a NATA certified laboratory or Manly council for compliance with ANZECC Water Quality Guidelines
  - b) If tested by NATA certified laboratory, the certificate of analysis issued by the laboratory must be forwarded to Manly Council as the appropriate regulatory authority under the Protection of the Environment Operations Act 1997, prior to the commencement of de-watering activities.
  - c) Council will grant approval to commence site de-watering to the stormwater based

on the water quality results received.

- d) It is the responsibility of the applicant to ensure that during de-watering activities, the capacity of the stormwater system is not exceeded, that there are no issues associated with erosion or scouring due to the volume of water pumped.
- e) Turbidity readings must not at any time exceed the ANZECC recommended 50ppm (parts per million) for receiving waters.
- f) Also the developer must contact the Department of Infrastructure, Planning and Natural Resources and comply with any of their requirements.

- 46. Roof and framing including provision for tie downs, bracing and fixings are to be designed by a practising Structural Engineer. The Engineer is to specify appropriate wind category relating to the site terrain, house design and height of the structure, with details being submitted to the Principal Certifying Authority **prior to the commencement of framework.**
- 47. All disturbed areas shall be stabilised against erosion to Council's satisfaction within 14 days of completion, and prior to removal of sediment controls.
- 48. The applicant and/or builder must prior to the commencement of work, install at the periphery of the site, measures to control sedimentation and the possible erosion of the land.

The measures must include:-

- (i) siltation fencing;
- (ii) protection of the public stormwater system; and
- (iii) site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.

- 49. Building or construction work must be confined to the hours between 7.00am to 6.00pm, Monday to Friday and 7.00am to 1.00pm, Saturday, with a total exclusion of such work on Public Holidays and Sundays. Non-offensive works where power operated plant is not used and including setting out, surveying, plumbing, electrical installation, tiling, internal timber or fibrous plaster fixing, glazing, cleaning down brickwork, painting, building or site cleaning by hand shovel and site landscaping, is permitted between the hours of 1.00pm to 4.00pm Saturdays.

Note: That the Protection of the Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.

- 50. All waste waters and overflow waters from any swimming pool shall be disposed of to the sewer in accordance with the requirements of Sydney Water.
- 51. The filter pump and motor shall be suitably housed and located as to reduce the possibility of noise nuisance to adjoining or nearby residents.
- 52. An approved Resuscitation Notice is to be erected in a prominent position in the immediate vicinity of the swimming pool and kept current at all times.
- 53. All surface waters from areas surrounding the swimming pool shall be collected and disposed of to the stormwater system.
- 54. An approved safety railing shall be provided around the outer elevated extremities of the swimming pool walkways, details of which shall be submitted to the Principal Certifying Authority **prior to issue of the Construction Certificate.**
- 55. Any exposed external face of the swimming pool walls shall be concealed by suitable

backfilling and landscaping so as to conceal the pool structure and to create a "buffer zone" between the proposed pool and neighbouring properties.

56. A railing or other safety measures or devices that are approved by the Principal Certifying Authority is to be erected around the sides of the pool surround structure where height above natural ground level exceeds 900mm. All details of the necessary device are to be submitted to and approved by the Principal Certifying Authority **prior to issue of the Construction Certificate**.

Note: If it is proposed that the railing or other safety measures will form part of the childproof fence or enclosure, the railing or other safety measures shall comply with Council's requirements for childproof fencing or enclosure which must have a minimum height of 1200mm.

57. All protective fencing and gates are to be in accordance with Australian Standard 1926 **prior to the pool being filled with water**. The fence is to be a minimum of 1200mm in height and posts and/or supports are to be firmly fixed or encased in such a way that the posts/support are unable to be removed easily. The fence is not to be removed or altered at any time without the express approval of Council having been obtained beforehand.
58. The proposed pool gates are to be mounted so that:-
- (i) They are clear of any obstruction that could hold the gate open;
  - (ii) When lifted upward or pulled downward, movement of the gate does not release the latching device, unhinge the gate or provide a ground clearance greater than 100mm; and
  - (iii) They open outwards from the pool.
59. Where the latching device release or the latch itself, on a pool gate is located at a height less than 1500mm above the finished ground level, the latch and its release shall be shielded in accordance with Australian Standard 1926.
60. There is to be no noise emitted from any process carried on within the premises that will register more than 5 decibels above the background noise at any point more than 3m outside the premises. In this regard the applicant's attention is drawn to the mechanical ventilation system.
61. Details of the method of termite protection which will provide whole of building protection, inclusive of structural and non-structural elements, shall be submitted to the Principal Certifying Authority **prior to issue of the Construction Certificate**. Attention is drawn to the provisions of Australian Standard 3660.1 "Protection of Buildings from Subterranean Termites - New Buildings" and to Council's Code for the "Protection of Buildings Against Termite Attack".
62. **Prior to issue of the Occupation Certificate**, a durable termite protection notice shall be permanently fixed to the building in a prominent location detailing the form of termite protection which has been used in accordance with Council's Code for the "Protection of Buildings Against Termite Attack".
64. This approval shall expire if the development hereby permitted is not commenced within 2 years of the date hereof or any extension of such period which Council may allow in writing on an application made before such an expiry.
65. In accordance with the Roads Act 1993, written consent from Council shall be obtained and shall 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.
66. The public footways and roadways adjacent to the site shall be maintained at all times

during the course of the work in a safe condition.

67. That the western wall be stepped back to 1.8m.

**RESOLVED: (Macdonald/Cant)**

That the Development Application No. 519/04 for "Alterations and Additions to Dwelling including Additional Storey and New Pool" at 33 Peacock Street, Seaforth be approved with the following conditions:

1. This approval relates to drawings/plans Nos. DA01, DA03, DA04, DA05, DA06, DA07, DA08, DA09 dated 5 August, **2004** and received by Council on the 18 October, **2004**.
2. The ROW is to remain unobstructed during the course of the site and building works. In particular the site management plan must provide for adequate access onto the site for all construction and delivery vehicles without obstructing other beneficiaries of the ROW. Details are to be to the satisfaction of the Accredited Authority prior to the issue of the Construction Certificate.
3. The overall height of the front roof plane is to be lowered by a minimum 300mm in accordance with DCP wall height criteria and objective (particularly overshadowing) and also having regard to the DCP in respect of fsr (bulk) and side setback objectives. Details are to be to the satisfaction of the Accredited Authority prior to the issue of the Construction Certificate.
4. The dining room window in the eastern elevation at first floor level is to be a highlight style having a minimum sill height of 1.6m to minimise privacy issues to the neighbours below. Details are to be to the satisfaction of the Accredited Authority prior to the issue of the Construction Certificate.
5. The northern elevation of the living room (first floor) is to be further setback from the front boundary by 1000mm to reduced to extent of wall in excess of the DCP wall height criteria and objective (particularly overshadowing) and also having regard to the DCP in respect of fsr (bulk) and side setback objectives. Details are to be to the satisfaction of the Accredited Authority prior to the issue of the Construction Certificate
6. The first floor deck at the rear of the dwelling is to be screened at both the eastern and the western end to effectively minimise overlooking down into the neighbour's rear yard. This may be achieved by either the provision of a 1m wide planter bed or a screen 1.6m high. Details are to be to the satisfaction of the Accredited Authority prior to the issue of the Construction Certificate.
7. The eastern side wall 1250mm from the boundary is to be brought **fully into compliance** with the DCP by either an increased setback to comply with the average set back requirement along the wall length or alternatively a reduction in the height of this same wall based on an average setback of a 1250mm. This reduction in either height or setback is to address objectives and planning criteria in respect of setback, height and fsr/bulk and also having regard to the dominance of this eastern side elevation in respect of the winged roof design and proposed extent of enclosure of the side entrance path. Details are to be to the satisfaction of the Accredited Authority prior to the issue of the Construction Certificate.
8. The front pergola (first floor) is not to protrude past the face of the ground floor wall. Details are to be to the satisfaction of the Accredited Authority prior to the issue of the Construction Certificate
9. The proposed eaves overhang is to be reduced to 200mm to the eastern and western side of the living room. Details are to be to the satisfaction of the Accredited Authority prior to

the issue of the Construction Certificate.

10. The proposed earth mounding indicated on by contour lines on the landscaping plan is to be raised a further 500mm. The extent of mounding is to minimise the streetscape appearance of the development as a three level structure in accordance with the DCP height and streetscape objectives. Planting around the pool is to be supplemented with additional planting and the planting identified as 'T' on the plan is also to be specified as a shrub type. Landscaping details are to be to the satisfaction of the Accredited Authority prior to the issue of the Construction Certificate.
11. The proposed pool and surrounding pool concourse and boundary retaining/ masonry walls are to be lowered by 1m to better comply with performance criteria and objectives for pools particularly regarding its height and setback and the height of boundary walls. **The rear boundary wall being a height of 1m above the adjacent driveway level.** Details are to be to the satisfaction of the Accredited Authority prior to the issue of the Construction Certificate.
12. Pursuant to Section 97 of the Local Government Act, 1993, Council requires, **prior to issue of the Construction Certificate, or commencement of any excavation and demolition works**, payment of a Trust Fund Deposit of \$7,500. The Deposit is required as security of compliance with Conditions of Consent, and as security against damage to Council property during works on the site.  
  
**Note:** Should Council property adjoining the site be defective eg, cracked footpath, broken kerb etc., this shall be reported in writing to Council, **at least 7 days prior to the commencement of any work on site.**
13. Any adjustment to the public utility service is to be carried out in compliance with their standards and the cost is to be borne by the applicant.
14. Details of the builder's name and licence number contracted to undertake the works shall be provided to Council **prior to issue of the Construction Certificate.**
15. Insurance must be undertaken with the contracted builder in accordance with the Home Building Act, 1997. Evidence of Insurance together with the contracted builders name and licence number must be submitted to Council **prior to issue of the Construction Certificate.**
16. Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.
17. Retaining walls being constructed in conjunction with excavations with such work being in accordance with structural engineer's details. Certification of compliance with the structural detail during construction shall be submitted to the Principal Certifying Authority.
18. All construction works shall be strictly in accordance with the Reduced Levels (RLs) as shown on the approved plans with certification being submitted to the Principal Certifying Authority during construction from a registered surveyor certifying ground and finished ridge levels.
19. 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 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 that you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.

20. A Certificate of Adequacy signed by a practising Structural Engineer is to be submitted to the Principal Certifying Authority in respect of the load carrying capabilities of the existing structure to support the proposed **additions prior to the issue of the Construction Certificate**.
21. Four (4) certified copies of the Structural Engineer's details in respect of all reinforced concrete, structural steel support construction and any proposed retaining walls shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate**.
22. Where any excavation extends below the level of the base of the footing of a building on an adjoining allotment of land, the person causing the excavation shall support the neighbouring building in accordance with the requirements of the Building Code of Australia.
23. The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in accordance with AS3740. Certification is to be provided to the Principal Certifying Authority from a licenced applicator prior to the fixing of any wall or floor tiles.
24. A suitable sub-surface drainage system being provided adjacent to all excavated areas and such drains being connected to an approved disposal system.
25. The implementation of adequate care during demolition/ excavation/ building/ construction to ensure that no damage is caused to any adjoining properties.
26. Prior to excavation applicants should contact the various utility providers to determine the position of any underground services.
27. On completion of the building structure a Registered Surveyor's report is to be submitted to the Principal Certifying Authority confirming that the building has been completed in accordance with the levels as shown on the approved plan.
28. A Registered Surveyor's certificate identifying the location of the building on the site is to be submitted to the Principal Certifying Authority immediately upon completion of the foundations and prior to work proceeding above dampcourse level.
29. 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.
30. Four (4) Architectural/Services Specifications are to be submitted with the Construction Certificate application **prior to the issue of the Construction Certificate**.
31. Roofwaters and surface stormwaters from paved areas is to be conveyed by pipeline to Council's street gutter in accordance with Council's stormwater management guidelines. That the existing system under the right of way is maintained, repaired or the design amended to ensure the system is fully operable.
32. All demolition is to be carried out in accordance with AS2601-1991.



33. Asbestos cement sheeting must be removed in accordance with the requirements of the WorkCover Authority.
34. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
35. An automatic fire detection and alarm system shall be installed in the proposed dwelling in accordance with the requirements of Part 3.7.2 of the Building Code of Australia 1996 - Housing Provisions.
36. Landscaping is to be carried out in accordance with the approved Landscape Plan submitted in conjunction with the Development Application. Evidence of an agreement for the maintenance of all plants for a period of 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.**
37. No tree other than on land identified for the construction of buildings and works as shown on the building plan shall be felled, lopped, topped, ringbarked or otherwise willfully destroyed or removed without the approval of Council.
38. No tree other than on land identified for the construction of buildings and works as shown on the building plan shall be felled, lopped, topped, ringbarked or otherwise willfully destroyed or removed without the approval of Council.
39. A landscaped buffer being provided along the near boundary of the development/site so as to screen/reduce the visual impact of the development. Details are to be submitted with the application for a Construction Certificate.
40. **Prior to the commencement of any works** on the land including demolition and site preparation, provision of silt control fences shall be provided. A Sediment/Erosion Control detail shall be submitted to the Certifying Authority **prior to the issue of the Construction Certificate.**
41. A Construction Certificate Application is required to be submitted to and issued by the Principal Certifying Authority **prior to any building works being carried out on site.**
42. The works require the following inspection/certification during the course of construction:-
  - Silt control fences
  - Footing inspection - trench and steel
  - Reinforced concrete slab
  - Framework inspection x 2
  - Wet area moisture barrier
  - Drainage inspection
  - Driveway crossing/kerb layback
  - Swimming pool reinforcing steel inspection
  - Swimming pool safety fence inspection
  - Final inspection

The cost of these inspections by Council is \$813. (being \$70.00 per inspection and \$113.00 for Final inspection inclusive of GST). **Should you require Council to undertake the inspection/certification, then payment is required prior to the first inspection. Inspection appointments can be made by contacting the Development Assessment Unit on 9976 1573 or 9976 1587.**

At least 24 hours notice should be given for a request for an inspection and submission of the relevant inspection card. Any additional inspection required as a result of incomplete

works will incur a fee of \$80.00.

43. An Occupation Certificate is to be issued by the Principal Certifying Authority **prior to occupation of the development**.
44. 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.
45. De-watering from the excavation or construction site must comply with the Protection of the Environment Operations Act 1997 and the following:
  - a) Ground water or other water to be pumped from the site into council's stormwater system must be sampled and analysed by a NATA certified laboratory or Manly council for compliance with ANZECC Water Quality Guidelines
  - b) If tested by NATA certified laboratory, the certificate of analysis issued by the laboratory must be forwarded to Manly Council as the appropriate regulatory authority under the Protection of the Environment Operations Act 1997, prior to the commencement of de-watering activities.
  - c) Council will grant approval to commence site de-watering to the stormwater based on the water quality results received.
  - d) It is the responsibility of the applicant to ensure that during de-watering activities, the capacity of the stormwater system is not exceeded, that there are no issues associated with erosion or scouring due to the volume of water pumped.
  - e) Turbidity readings must not at any time exceed the ANZECC recommended 50ppm (parts per million) for receiving waters.
  - f) Also the developer must contact the Department of Infrastructure, Planning and Natural Resources and comply with any of their requirements.
46. Roof and framing including provision for tie downs, bracing and fixings are to be designed by a practising Structural Engineer. The Engineer is to specify appropriate wind category relating to the site terrain, house design and height of the structure, with details being submitted to the Principal Certifying Authority **prior to the commencement of framework**.
47. All disturbed areas shall be stabilised against erosion to Council's satisfaction within 14 days of completion, and prior to removal of sediment controls.
48. The applicant and/or builder must prior to the commencement of work, install at the periphery of the site, measures to control sedimentation and the possible erosion of the land.

The measures must include:-

  - (i) siltation fencing;
  - (ii) protection of the public stormwater system; and
  - (iii) site entry construction to prevent vehicles that enter and leave the site from tracking loose material onto the adjoining public place.
49. Building or construction work must be confined to the hours between 7.00am to 6.00pm, Monday to Friday and 7.00am to 1.00pm, Saturday, with a total exclusion of such work on Public Holidays and Sundays. Non-offensive works where power operated plant is not used and including setting out, surveying, plumbing, electrical installation, tiling, internal

timber or fibrous plaster fixing, glazing, cleaning down brickwork, painting, building or site cleaning by hand shovel and site landscaping, is permitted between the hours of 1.00pm to 4.00pm Saturdays.

Note: That the Protection of the Environment Operations Act 1997 may preclude the operation of some equipment on site during these permitted working hours.

50. All waste waters and overflow waters from any swimming pool shall be disposed of to the sewer in accordance with the requirements of Sydney Water.
51. The filter pump and motor shall be suitably housed and located as to reduce the possibility of noise nuisance to adjoining or nearby residents.
52. An approved Resuscitation Notice is to be erected in a prominent position in the immediate vicinity of the swimming pool and kept current at all times.
53. All surface waters from areas surrounding the swimming pool shall be collected and disposed of to the stormwater system.
54. An approved safety railing shall be provided around the outer elevated extremities of the swimming pool walkways, details of which shall be submitted to the Principal Certifying Authority **prior to issue of the Construction Certificate**.
55. Any exposed external face of the swimming pool walls shall be concealed by suitable backfilling and landscaping so as to conceal the pool structure and to create a "buffer zone" between the proposed pool and neighbouring properties.
56. A railing or other safety measures or devices that are approved by the Principal Certifying Authority is to be erected around the sides of the pool surround structure where height above natural ground level exceeds 900mm. All details of the necessary device are to be submitted to and approved by the Principal Certifying Authority **prior to issue of the Construction Certificate**.

Note: If it is proposed that the railing or other safety measures will form part of the childproof fence or enclosure, the railing or other safety measures shall comply with Council's requirements for childproof fencing or enclosure which must have a minimum height of 1200mm.

57. All protective fencing and gates are to be in accordance with Australian Standard 1926 **prior to the pool being filled with water**. The fence is to be a minimum of 1200mm in height and posts and/or supports are to be firmly fixed or encased in such a way that the posts/support are unable to be removed easily. The fence is not to be removed or altered at any time without the express approval of Council having been obtained beforehand.
58. The proposed pool gates are to be mounted so that:-
  - (i) They are clear of any obstruction that could hold the gate open;
  - (ii) When lifted upward or pulled downward, movement of the gate does not release the latching device, unhinge the gate or provide a ground clearance greater than 100mm; and
  - (iii) They open outwards from the pool.
59. Where the latching device release or the latch itself, on a pool gate is located at a height less than 1500mm above the finished ground level, the latch and its release shall be shielded in accordance with Australian Standard 1926.
60. There is to be no noise emitted from any process carried on within the premises that will

register more than 5 decibels above the background noise at any point more than 3m outside the premises. In this regard the applicant's attention is drawn to the mechanical ventilation system.

61. Details of the method of termite protection which will provide whole of building protection, inclusive of structural and non-structural elements, shall be submitted to the Principal Certifying Authority **prior to issue of the Construction Certificate**. Attention is drawn to the provisions of Australian Standard 3660.1 "Protection of Buildings from Subterranean Termites - New Buildings" and to Council's Code for the "Protection of Buildings Against Termite Attack".
62. **Prior to issue of the Occupation Certificate**, a durable termite protection notice shall be permanently fixed to the building in a prominent location detailing the form of termite protection which has been used in accordance with Council's Code for the "Protection of Buildings Against Termite Attack".
64. This approval shall expire if the development hereby permitted is not commenced within 2 years of the date hereof or any extension of such period which Council may allow in writing on an application made before such an expiry.
65. In accordance with the Roads Act 1993, written consent from Council shall be obtained and shall 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.
66. The public footways and roadways adjacent to the site shall be maintained at all times during the course of the work in a safe condition.
67. That the western wall be stepped back to 1.8m.

**For the Resolution:** Councillors Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison, Pedersen, Aird, Evans, Norek and Macdonald.

**Against the Resolution:** Nil.

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Environmental Services Division Report No. 14

### **Widening of Spit Bridge (DA134/03)**

**Application Lodged:** 24 March 2003  
**Applicant:** New South Wales Road and Traffic Authority  
**Owner:** Publicly Owned Land; With A Small Area Of Privately Owned Land  
**Estimated Cost:** \$2.5M (Manly Approach)  
**Zoning:** Manly Local Environmental Plan 1988  
 Roadway Unzoned, and Part Residential: Within The Foreshore Scenic Protection Area Surrounding  
**Development:** Residential Dwellings and Open Space.  
**Heritage:** The following items are with, or in close proximity to the proposed works:

- The Spit, Seaforth
- Reserved Track for Trams - from Whittle Ave to the Spit Bridge, Seaforth
- Former Bridge - The Spit, Seaforth
- Vehicular Ferry Ramp - The Sit Bridge, Seaforth
- Tran Terminus and Wharf for Tram Punt - The Spit Bridge, Seaforth
- Monument - The Spit Bridge, Seaforth

### **SUMMARY:**

1. DEVELOPMENT CONSENT IS SOUGHT FOR WIDENING MANLY ROAD ALONG THE APPROACH TO THE SPIT BRIDGE, FORMING PART OF AN OVERALL PROPOSAL TO WIDEN THE SPIT BRIDGE TO SIX (6) LANES.
2. A CONSULTING PLANNING FIRM WAS ENGAGED BY COUNCIL, IN CONJUNCTION WITH MOSMAN MUNICIPAL COUNCIL AND THE WATERWAYS AUTHORITY, TO ASSESS THE APPLICATION.
3. AS PART OF THE ASSESSMENT PROCESS SEVENTY SIX (76) SUBMISSIONS WERE RECEIVED AND A PUBLIC MEETING WAS HELD IN BALGOWLAH AT WHICH OVER 200 PEOPLE WERE PRESENT.
4. THE CONSULTANT FINALISED THEIR REPORT AND THEIR RECOMMENDATIONS WERE PRESENTED TO COUNCIL'S EXTRAORDINARY MEETING 23 JUNE, 2003.
5. COUNCIL RESOLVED TO REFER THE APPLICATION THE MINISTER DUE TO THE WIDER REGIONAL RAMIFICATIONS AND TO SEEK A MEETING WITH THE MINISTER.
6. A MEETING WAS HELD BETWEEN REPRESENTATIVES OF MOSMA, MANLY COUNCILS AND THE RTA CHAIRED BY THE OFFICE OF THE COMMISSION OF INQUIRY.
7. DIPNR REFERRED THE MATTER TO THE MINISTER FOR DETERMINATION.
8. COUNCIL IS IN RECEIPT OF A REQUEST FROM THE MINISTER TO PROVIDE DRAFT CONDITIONS.

**MOTION: (Macdonald/Aird)**

- A.** In respect of Development Application No.134/03 for "Widening Manly Road Along the Approach to the Spit Bridge, forming part of an overall Proposal to Widen the Spit Bridge to Six (6) Lanes" Council forward the following draft conditions to Department of Infrastructure and Natural Resources (DIPNR).
1. The Development is to be carried out in accordance with the detail drawings as per Appendix A to the Statement of Environmental Effects/ Review of Environmental Factors, Volume 1 – Main Report prepared by GHD and dated March 2003, except where changed, modified or revised below.
  2. A copy of the approved plans must be kept on site for the duration of the site works and be made available to an officer of Manly and Mosman Council when requested
  3. The contractor shall undertake a dilapidation report for all adjoining properties, including Council owned property for a radius of 300 metres (from the northern and southern road approaches) which documents and photographs the condition of buildings and improvements on those properties; a copy of which will be provided to Manly and Mosman Councils prior to any works on the site. The report will be held by the Councils and made available in any dispute between the contractor, NSW Government and its agencies, any adjoining owner and/ or either Council arising from site and construction works.
  4. All street trees and trees on private property that are protected under the Manly or Mosman Tree Preservation Order, shall be retained except where the prior written permission of the relevant Council has been obtained, or where the trees stand within the envelope of the works associated with the Spit Bridge widening
  5. A cash deposit or bank guarantee to the value of \$500,000.00 in favour of each Council shall be provided for the making good any damage caused to Council property. A request for a refund of unused funds may be made following the completion of works and an inspection of the property carried out by each Council and the tenderer.
  6. In accordance with the Act, this consent shall lapse unless work has physically commenced on the land within 2 years from the date of the consent.
  7. Public liability insurance to the value of \$20,000,000.00 must be taken out by the

successful tenderer, builder or NSW Government Agency to protect any person, firm or company from injury, loss or damage sustained as a consequence of the carrying out of site works, including all excavation, demolition and construction works. A copy of the policy must be provided to each Council.

8. In order to maintain the amenity of adjoining properties and users of the bridge, site works shall be restricted to between 7.00am – 6.00pm Monday to Friday, 8.00am – 5.00pm Saturday

Other construction times may be approved by the supervising Government agency subject to no noisy or vibration activities undertaken outside the stipulated hours on Monday to Friday.

Any proposal to revise the work hours should be referred to the Community Forum for comment, prior to their implementation

All revised work hours are to be advertised in a local newspaper, notice boards and both Councils notified

9. All natural landscape features including trees and other vegetation; natural rock outcrops, soil and watercourses shall remain undisturbed except where affected by the necessary works detailed on the approved plans.
10. To ensure the survival of landscaping following works, a landscape maintenance strategy for the RTA to administer over a 12 month establishment period following completion the site works shall be prepared and followed.
11. The strategy is to address maintenance issues such as plant survival, irrigation, soil testing, weeding, plant staking, fertilising, pest and disease control, replanting, and remedial pruning.
12. The existing Norfolk Island Pine Trees and other mature species on the south western side of the roadway approach to the bridge are not to be removed or destroyed during the works. A bond of \$100,000.00 be required to be lodged against removal or damage to any mature tree along the southern road approach to the Spit Bridge
13. The contractor, supervising Government agency, Manly and Mosman Councils are to hold discussions concerning the appropriate future landscaping at the junction of the bridge and the land at both the northern and southern approaches which is to be undertaken and completed by the contractor at no cost to the Councils and to a plan approved by each Council
14. To provide reasonable worker amenity, toilet and lunch room facilities shall be provided at or near the vicinity of the work site for the duration of the site work activities
15. Any and all Site/Construction depots are to be appropriately signposted, fenced and screened where possible, to minimise any detrimental impact on the area
16. In accordance with the Regulations to the Act, the authority responsible for the supervision of the site works must keep records of each and every inspection as soon as practicable after it has been carried out and a copy is to be forwarded to each Council for its records and a copy kept on site.

The record must include details as to the date and time of inspection, type of inspection, what was inspected and the opinion of inspector as to the result of the inspection

17. A copy of any compliance certificates received by the supervising Government agency shall

be forwarded to each Council for its records.

18. The contractor shall prepare an Environmental Management Plan which will include issues in relation to:-
  1. sediment run off and erosion controls
  2. water quality monitoring
  3. size of construction vessels
  4. determining turbidity
  5. monitoring nutrient levels
  6. contingency measures for spills
  7. controlling movements of barges and support vessels
  8. this be implemented prior to any site works
19. Temporary sedimentation and erosion controls shall be constructed prior to the commencement of any site works in order to prevent any discharge of sediment from the site. The controls shall be designed and installed in accordance with the requirements of the NSW Department of Conservation and Land Management's "Urban Erosion and Sediment Control" manual.
20. All the above controls and measures must be maintained at all times during the course of construction and shall not be removed until the site works have been completed and landscaped and an inspection carried out with the tenderer and a member of each Council and the supervising Government agency
21. An acid sulphate soil (ASS) assessment be undertaken by the successful tenderer prior to any site works and if any ASS is identified, then an ASS Management Plan be prepared, approved by the supervising Government agency and implemented before any site works commence
22. No construction activities or amenities (such as site sheds and support areas) are to be erected on the eastern side of the northern approach to the Spit Bridge (Avona Crescent)
23. The contractor is to require a survey to determine – whether there is present in the Avona Crescent bushland – the Red Crowned Toadlet to ensure non disturbance of root zones and flying fox communities (needs staff clarification of what is intended).

The Contractor is to require a survey to determine whether there is present in the Avona Cres bushland a) the Red Crowned Toadlet, or b) habitat trees significant to Flying Fox communities.

In the event that these natural features are present, that habitat is disturbance, including disturbance to the root zone of habitat trees, I avoided.
24. The contractor is to ensure that measures, such as gross pollutant traps, are put in place to prevent water run off from the bridge into the water
25. The detail design of the new bridge is to incorporate all measures as recommended in the executive summary in the report titled 'Proposed widening of the Spit Bridge – urban design / landscape assessment / visual quality assessment prepared by Bryant Associates dated February 2003
26. The possibility of siltation of the waterway during the construction process will need to be monitored by an appropriate expert and the results provided to NSW Waterways for their consideration and advice
27. The contractor to undertake the mitigation measures as outlined in the Statement of

Environmental Effects/ Review of Environmental Factors Volume 1 – Main Report, Chapter 19 Ecologically Sustainable Development prepared by GHD and dated March 2003

28. The relocation of fuel tanks, associated with the marina, will be undertaken in close supervision of all relevant Government agencies to ensure no decontamination and fuel spillage occurs and no adverse impacts on local amenity
29. The design of the new bridge components is to remain sympathetic to the form, function and design ethic of the existing structure and adhere to the principles of the Australia ICOMOS Burra Charter
30. As depicted in the concept drawing, the handrails and light stanchions from the western side of the existing bridge should be re-erected, or replaced as like structures, along the western side of the new structure
31. The completion of an archival quality photographic essay of the Spit Bridge must be carried out and completed, by a heritage expert, prior to any construction/ demolition activities taking place. In addition the construction process of the new bridge should also be archivally recorded as well as the way in which it interacts with the original structure.

Following completion of the construction project, this information can be included in the interpretation of the overall bridge complex.

32. A copy of the essay and construction process of the new bridge is to be given to each Council for the Library:
33. All photography and other recording must comply with the standards and guidelines of the NSW Heritage Office
34. During the demolition and construction process, every effort must be made for the protection of the cultural resources contained within the surrounding landscapes. There should be no impact on the identified historic resources that are located within the immediate vicinity of the Spit Bridge
35. Prior to any site works taking place, a management strategy is to be devised to ensure all identified archaeological and heritage sites adjacent to the bridge are protected from the negative impacts associated with the proposed works. This may include the identification, demarcation and restriction of access to these items. Works teams are to be briefed, by an appropriate heritage expert, on their importance and why they must not be impacted upon
36. All works associated with the proposed development must cease if indigenous and/or historic artefacts are uncovered during the construction process regardless of whether archaeological monitoring is taking place and the relevant heritage authority contacted
37. The RTA project management staff (or other supervising Government agency) must be made aware of the statutory legislation protecting sites and places of cultural heritage, and transfer this knowledge and responsibility to any and all contractors working on the site. All contractor staff (including sub contractors) working on the project must be educated about the existing heritage legislation, and the process required when remains are uncovered.
38. Interpretation in the form of information and educational boards located in a safe position shall occur. The owner of the bridge should liaise with Manly and Mosman Councils to ensure that any interpretation prepared adequately addresses the significance of the current bridge and previous crossings. The interpretation of the cultural landscape must meet the following –
  - NSW Heritage Office
  - Australian Heritage Commission



- Australian ICOMOS Burra Charter
- NSW Heritage Legislation

39. Further archaeological assessment is required as follows and prior to any works on site:-
- core samples at the location where the northernmost and southernmost pylons are to be erected and be checked by an appropriately qualified archaeologist
  - monitor works at the southern and northern ends of the bridge for Aboriginal objects embedded in the sand and on the rock face on the northern side for Aboriginal (or other) heritage
40. If the bascule lifting mechanism is to be replaced, a further report on its significance may be necessary and any subsequent treatment should be in accordance with the Burra Charter
41. A Conservation Management Plan will be prepared by a heritage expert, prior to any site works and implemented during the project. A copy of this Plan will be provided to each Council.
42. The public, and boat owners in particular, be given 7 days notice of closure of the bridge for more than 12 hours, which would disrupt shipping movements, with notices appearing in daily newspapers, local newspapers, local marinas, local sailing and other relevant clubs
43. The public, public transport operators and vehicle owners are to be informed of any and all bridge closures (above normal daily closures) by means of notices appearing in daily newspapers, local papers, notices on the approach roads, a minimum of 24 hours prior to such closure and the Council being informed
44. Construction works to the bridge are to ensure minimal disruption to flow of traffic in either direction at all times and in particular, no disruption to existing vehicle traffic flows during peak hour periods
45. Signs being placed at relevant locations on Manly Road, Sydney Road, Frenchs Forest Road, Burnt Bridge Creek Diversion, Military Road, Spit Road informing the motoring public of the works proposed, likely disruption dates and times and completion date.
46. Any impact on vehicular and pedestrian access to any public and private property or commercial business at or near to the Spit Bridge will need to be considered in concert with the relevant owners or business operators and a plan put in place to ensure minimal disruption
47. Notices are to be erected in reasonable proximity to the proposed bridge works informing the public of the development, the reason for the closure of public access and the date when public access will be reinstated, both across and under the bridge
- During construction the RTA must advise the public every three months, in public notices within local newspapers, the nature of works proposed, the area these works will be undertaken, construction hours and a contact telephone number
48. A Community Consultation Plan is to be prepared by the contractor, after discussion with each Council and the supervising Government agency to include, but not be limited to:-
- information sheets showing the work schedule and completion date
  - name of principal contractor, contact person, address and telephone number
  - times of changes to bridge opening
  - noisy activities and times
  - construction hours

- vibration activity times
49. A Spit Bridge Widening Community Forum will be set up in concert with each council, supervising Government agency, contractor, local residents and businesses to oversee the project, discuss complaints and provide feedback to both the contractor and community.
- This forum to meet once a month (at the beginning of the project) and to include a representative each of Manly and Mosman Council, 1 representative of the supervising Government agency, 1 representative of the principal contractor, 2 local residents, 1 local business operator, 1 club representative
50. The RTA will implement a system (supported by adequate resources) prior to the commencement of any works on site which ensures that all complaints received are recorded and managed as expeditiously as possible. The system to include but not be limited to –
- 24 hour toll free telephone number listed in the telephone book and advertised
  - adequate human, communication and transport resources
  - a person to receive, log, track and respond to complaints within a specified time frame. The name and contact details of the nominated person(s) must be provided to Manly and Mosman Councils
  - details of all complaints received must be recorded and at least an oral response provided on what action is proposed to be undertaken (within 2 hours at nighttimes and 12 hours at all other times)
  - a report is to be prepared every month to be tabled at the Community Forum meeting and a copy sent to both Councils
51. In accordance with the 'Proposed Spit Bridge Widening Noise Assessment' prepared by Wilkinson Murray Pty Ltd and dated February 2003, noise abatement measures, in the form of architectural finishes are to be implemented to all affected private properties, after consultation with the affected owners and the relevant Council
52. A Noise Management Plan is to be prepared for the contractor, by a reputable noise consultant, endorsed by each Council and the supervising Government agency, which will set out noise control strategies to be implemented during construction of the project which could include, but not limited to the following:-
- quiet plant and equipment
  - restrictions in construction noise for noisy equipment
  - noise levels of equipment
  - no impact type noise events at night
  - notification to residents of noisy and vibration activities
  - monitoring noise and vibration activities
53. To minimise noise impacts during construction, the RTA must consult with Mosman and Manly Councils and affected landowners, and erect operational noise mitigation measures prior to the commencement of construction
54. The contractor and any relevant sub contractor is to ensure that: - all stockpiled material is covered to prevent generation of dust and or adverse visual impacts:
- stage all clearing activities to minimise any exposed areas
  - suppression of dust by use of water on dry windy days
  - locate all dust susceptible materials as far away as possible from any residential dwelling and/or businesses and clubs

55. The contractor to prepare a waste management strategy prior to any works on site and implement the strategy during the project, which will include –
- demolition waste
  - cleared vegetation
  - site establishment waste
  - construction waste
  - wastewater
  - domestic construction waste
  - ablution waste
  - waste oils and fuels
  - vehicle emissions
  - hazardous materials
  - with a view to waste reduction; reuse; recycling and other
56. The RTA must submit to the Director General – Construction Compliance Reports detailing the environmental performance of the construction works and compliance with the various conditions of approval. These reports must be prepared every three months from commencement of the project unless or otherwise advised by the Director General
- A copy of these reports is to be sent to the Councils for information and also a copy forwarded to the next available Community Forum Meeting
57. The RTA must prepare a Construction Traffic Management Plan in consultation with Manly and Mosman Councils. The plan to include but not be limited to –
- Identification of all public roads to be used by construction traffic, in particular, roads likely to be affected by closures or disruptions
  - Timing and duration of the use of these roads
  - Impacts on existing road users inc pedestrians
  - Access to construction sites
  - Truck ingress/ egress routes
  - Temporary and interim traffic arrangements
  - Strategy to minimise heavy vehicle movements through residential streets
  - Response plan for any construction traffic incident
  - Options for use by water
  - Review and modification mechanisms
58. Any loss of public car parking is to be reinstated to the reasonable satisfaction of each Council at the completion of the works and prior to the opening of the bridge
59. At least four weeks (or within a time frame approved by the Director General) prior to the operation of the new bridge elements, the RTA must submit a Pre-Operation Compliance Report to the Director General. The report must detail how all the conditions that apply prior to the commencement of bridge operations were complied with and must include:
- details demonstrating how each condition was satisfied
  - details as to when each condition was satisfied
  - summarises the major issues raised through the ongoing community consultation
  - summarises major environmental issues and how they were managed
  - conditions placed on separate approvals/ licences and action taken to satisfy those conditions
  - plan of how the on going operation stage will be satisfied

Operations must not commence until the RTA has been advised in writing that all of the relevant conditions have been complied with and the report submitted to the Director

## General

60. The RTA must endeavour to resolve any dispute between or with public authorities, adjoining owners and the public arising out of the construction of the bridge and approaches.

If there is no resolution, then the Director General will appoint a mediator to assess, consider and resolve any dispute that is on going. The mediator will be chosen from a member of a recognised professional organisation if required or a dispute resolution expert whoever is the more competent in each case.

61. Manly and Mosman Council will be given 7 days notice of the completion of the works.
62. That the Bridge widening include provision of dedicated cycle/pedestrian lanes both on the bridge and on the approaches, as part of a dedicated active transport route from Manly to North Sydney and the Sydney CBD.
- B. That a copy of the draft conditions be forwarded to the General Manager, Mosman Municipal Council for information.
- C. That Council seek from the Minister for Infrastructure, Planning and Natural Resources a written agreement in the form of a MOU to work with SHOROC Councils to progress an integrated package of additional measures to improve both road and water-based public transport and traffic flows on the Northern Beaches.
- D. That the integrated transport package commit to investment in improved ferry and bus services, rather than the high levels of expenditure necessary to progress a road tunnel as an additional Middle Harbour crossing.
- E. That the Warren Centre Report that has been provided to Councillors and the proposals recommended in that document be forwarded to the Minister.
- F. That the matter of a weekend clearway on the eastern side of Spit Road between Spit Bridge and Spit Junction be expedited.
- G. That the RTA be invited to brief local residents on the impact of the proposal.
- H. That the planning report from Consultant Planner Mr James Nangle be acknowledged.

**RESOLVED: (Macdonald/Aird)**

- A. In respect of Development Application No.134/03 for "Widening Manly Road Along the Approach to the Spit Bridge, forming part of an overall Proposal to Widen the Spit Bridge to Six (6) Lanes" Council forward the following draft conditions to Department of Infrastructure and Natural Resources (DIPNR).
1. The Development is to be carried out in accordance with the detail drawings as per Appendix A to the Statement of Environmental Effects/ Review of Environmental Factors, Volume 1 – Main Report prepared by GHD and dated March 2003, except where changed, modified or revised below.
  2. A copy of the approved plans must be kept on site for the duration of the site works and be made available to an officer of Manly and Mosman Council when requested
  3. The contractor shall undertake a dilapidation report for all adjoining properties, including Council owned property for a radius of 300 metres (from the northern and southern road

approaches) which documents and photographs the condition of buildings and improvements on those properties; a copy of which will be provided to Manly and Mosman Councils prior to any works on the site. The report will be held by the Councils and made available in any dispute between the contractor, NSW Government and its agencies, any adjoining owner and/ or either Council arising from site and construction works.

4. All street trees and trees on private property that are protected under the Manly or Mosman Tree Preservation Order, shall be retained except where the prior written permission of the relevant Council has been obtained, or where the trees stand within the envelope of the works associated with the Spit Bridge widening
5. A cash deposit or bank guarantee to the value of \$500,000.00 in favour of each Council shall be provided for the making good any damage caused to Council property. A request for a refund of unused funds may be made following the completion of works and an inspection of the property carried out by each Council and the tenderer.
6. In accordance with the Act, this consent shall lapse unless work has physically commenced on the land within 2 years from the date of the consent.
7. Public liability insurance to the value of \$20,000,000.00 must be taken out by the successful tenderer, builder or NSW Government Agency to protect any person, firm or company from injury, loss or damage sustained as a consequence of the carrying out of site works, including all excavation, demolition and construction works. A copy of the policy must be provided to each Council.
8. In order to maintain the amenity of adjoining properties and users of the bridge, site works shall be restricted to between 7.00am – 6.00pm Monday to Friday, 8.00am – 5.00pm Saturday

Other construction times may be approved by the supervising Government agency subject to no noisy or vibration activities undertaken outside the stipulated hours on Monday to Friday.

Any proposal to revise the work hours should be referred to the Community Forum for comment, prior to their implementation

All revised work hours are to be advertised in a local newspaper, notice boards and both Councils notified

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10. To ensure the survival of landscaping following works, a landscape maintenance strategy for the RTA to administer over a 12 month establishment period following completion the site works shall be prepared and followed.
11. The strategy is to address maintenance issues such as plant survival, irrigation, soil testing, weeding, plant staking, fertilising, pest and disease control, replanting, and remedial pruning.
12. The existing Norfolk Island Pine Trees and other mature species on the south western side of the roadway approach to the bridge are not to be removed or destroyed during the works. A bond of \$100,000.00 be required to be lodged against removal or damage to any mature tree along the southern road approach to the Spit Bridge
13. The contractor, supervising Government agency, Manly and Mosman Councils are to hold

discussions concerning the appropriate future landscaping at the junction of the bridge and the land at both the northern and southern approaches which is to be undertaken and completed by the contractor at no cost to the Councils and to a plan approved by each Council

14. To provide reasonable worker amenity, toilet and lunch room facilities shall be provided at or near the vicinity of the work site for the duration of the site work activities
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The record must include details as to the date and time of inspection, type of inspection, what was inspected and the opinion of inspector as to the result of the inspection

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20. All the above controls and measures must be maintained at all times during the course of construction and shall not be removed until the site works have been completed and landscaped and an inspection carried out with the tenderer and a member of each Council and the supervising Government agency
21. An acid sulphate soil (ASS) assessment be undertaken by the successful tenderer prior to any site works and if any ASS is identified, then an ASS Management Plan be prepared, approved by the supervising Government agency and implemented before any site works commence
22. No construction activities or amenities (such as site sheds and support areas) are to be erected on the eastern side of the northern approach to the Spit Bridge (Avona Crescent)
23. The contractor is to require a survey to determine – whether there is present in the Avona Crescent bushland – the Red Crowned Toadlet to ensure non disturbance of root zones and flying fox communities (nneeds staff clarification of what is intended).

The Contractor is to require a survey to determine whether there is present in the Avona

Cres bushland a) the Red Crowned Toadlet, or b) habitat trees significant to Flying Fox communities.

In the event that these natural features are present, that habitat is disturbance, including disturbance to the root zone of habitat trees, I avoided.

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26. The possibility of siltation of the waterway during the construction process will need to be monitored by an appropriate expert and the results provided to NSW Waterways for their consideration and advice
27. The contractor to undertake the mitigation measures as outlined in the Statement of Environmental Effects/ Review of Environmental Factors Volume 1 – Main Report, Chapter 19 Ecologically Sustainable Development prepared by GHD and dated March 2003
28. The relocation of fuel tanks, associated with the marina, will be undertaken in close supervision of all relevant Government agencies to ensure no decontamination and fuel spillage occurs and no adverse impacts on local amenity
29. The design of the new bridge components is to remain sympathetic to the form, function and design ethic of the existing structure and adhere to the principles of the Australia ICOMOS Burra Charter
30. As depicted in the concept drawing, the handrails and light stanchions from the western side of the existing bridge should be re-erected, or replaced as like structures, along the western side of the new structure
31. The completion of an archival quality photographic essay of the Spit Bridge must be carried out and completed, by a heritage expert, prior to any construction/ demolition activities taking place. In addition the construction process of the new bridge should also be archivally recorded as well as the way in which it interacts with the original structure.

Following completion of the construction project, this information can be included in the interpretation of the overall bridge complex.

32. A copy of the essay and construction process of the new bridge is to be given to each Council for the Library:
33. All photography and other recording must comply with the standards and guidelines of the NSW Heritage Office
34. During the demolition and construction process, every effort must be made for the protection of the cultural resources contained within the surrounding landscapes. There should be no impact on the identified historic resources that are located within the immediate vicinity of the Spit Bridge
35. Prior to any site works taking place, a management strategy is to be devised to ensure all identified archaeological and heritage sites adjacent to the bridge are protected from the negative impacts associated with the proposed works. This may include the identification, demarcation and restriction of access to these items. Works teams are to be briefed, by an

appropriate heritage expert, on their importance and why they must not be impacted upon

36. All works associated with the proposed development must cease if indigenous and/or historic artefacts are uncovered during the construction process regardless of whether archaeological monitoring is taking place and the relevant heritage authority contacted
37. The RTA project management staff (or other supervising Government agency) must be made aware of the statutory legislation protecting sites and places of cultural heritage, and transfer this knowledge and responsibility to any and all contractors working on the site. All contractor staff (including sub contractors) working on the project must be educated about the existing heritage legislation, and the process required when remains are uncovered.
38. Interpretation in the form of information and educational boards located in a safe position shall occur. The owner of the bridge should liaise with Manly and Mosman Councils to ensure that any interpretation prepared adequately addresses the significance of the current bridge and previous crossings. The interpretation of the cultural landscape must meet the following –
  - NSW Heritage Office
  - Australian Heritage Commission
  - Australian ICOMOS Burra Charter
  - NSW Heritage Legislation
39. Further archaeological assessment is required as follows and prior to any works on site:-
  - core samples at the location where the northernmost and southernmost pylons are to be erected and be checked by an appropriately qualified archaeologist
  - monitor works at the southern and northern ends of the bridge for Aboriginal objects embedded in the sand and on the rock face on the northern side for Aboriginal (or other) heritage
40. If the bascule lifting mechanism is to be replaced, a further report on its significance may be necessary and any subsequent treatment should be in accordance with the Burra Charter
41. A Conservation Management Plan will be prepared by a heritage expert, prior to any site works and implemented during the project. A copy of this Plan will be provided to each Council.
42. The public, and boat owners in particular, be given 7 days notice of closure of the bridge for more than 12 hours, which would disrupt shipping movements, with notices appearing in daily newspapers, local newspapers, local marinas, local sailing and other relevant clubs
43. The public, public transport operators and vehicle owners are to be informed of any and all bridge closures (above normal daily closures) by means of notices appearing in daily newspapers, local papers, notices on the approach roads, a minimum of 24 hours prior to such closure and the Council being informed
44. Construction works to the bridge are to ensure minimal disruption to flow of traffic in either direction at all times and in particular, no disruption to existing vehicle traffic flows during peak hour periods
45. Signs being placed at relevant locations on Manly Road, Sydney Road, Frenchs Forest Road, Burnt Bridge Creek Diversion, Military Road, Spit Road informing the motoring public of the works proposed, likely disruption dates and times and completion date.
46. Any impact on vehicular and pedestrian access to any public and private property or commercial business at or near to the Spit Bridge will need to be considered in concert with



the relevant owners or business operators and a plan put in place to ensure minimal disruption

47. Notices are to be erected in reasonable proximity to the proposed bridge works informing the public of the development, the reason for the closure of public access and the date when public access will be reinstated, both across and under the bridge

During construction the RTA must advise the public every three months, in public notices within local newspapers, the nature of works proposed, the area these works will be undertaken, construction hours and a contact telephone number

48. A Community Consultation Plan is to be prepared by the contractor, after discussion with each Council and the supervising Government agency to include, but not be limited to:-

- information sheets showing the work schedule and completion date
- name of principal contractor, contact person, address and telephone number
- times of changes to bridge opening
- noisy activities and times
- construction hours
- vibration activity times

49. A Spit Bridge Widening Community Forum will be set up in concert with each council, supervising Government agency, contractor, local residents and businesses to oversee the project, discuss complaints and provide feedback to both the contractor and community.

This forum to meet once a month (at the beginning of the project) and to include a representative each of Manly and Mosman Council, 1 representative of the supervising Government agency, 1 representative of the principal contractor, 2 local residents, 1 local business operator, 1 club representative

50. The RTA will implement a system (supported by adequate resources) prior to the commencement of any works on site which ensures that all complaints received are recorded and managed as expeditiously as possible. The system to include but not be limited to –

- 24 hour toll free telephone number listed in the telephone book and advertised
- adequate human, communication and transport resources
- a person to receive, log, track and respond to complaints within a specified time frame. The name and contact details of the nominated person(s) must be provided to Manly and Mosman Councils
- details of all complaints received must be recorded and at least an oral response provided on what action is proposed to be undertaken (within 2 hours at nighttimes and 12 hours at all other times)
- a report is to be prepared every month to be tabled at the Community Forum meeting and a copy sent to both Councils

51. In accordance with the 'Proposed Spit Bridge Widening Noise Assessment' prepared by Wilkinson Murray Pty Ltd and dated February 2003, noise abatement measures, in the form of architectural finishes are to be implemented to all affected private properties, after consultation with the affected owners and the relevant Council

52. A Noise Management Plan is to be prepared for the contractor, by a reputable noise consultant, endorsed by each Council and the supervising Government agency, which will set out noise control strategies to be implemented during construction of the project which could include, but not limited to the following:-

- quiet plant and equipment
  - restrictions in construction noise for noisy equipment
  - noise levels of equipment
  - no impact type noise events at night
  - notification to residents of noisy and vibration activities
  - monitoring noise and vibration activities
53. To minimise noise impacts during construction, the RTA must consult with Mosman and Manly Councils and affected landowners, and erect operational noise mitigation measures prior to the commencement of construction
54. The contractor and any relevant sub contractor is to ensure that: - all stockpiled material is covered to prevent generation of dust and or adverse visual impacts:
- stage all clearing activities to minimise any exposed areas
  - suppression of dust by use of water on dry windy days
  - locate all dust susceptible materials as far away as possible from any residential dwelling and/or businesses and clubs
55. The contractor to prepare a waste management strategy prior to any works on site and implement the strategy during the project, which will include –
- demolition waste
  - cleared vegetation
  - site establishment waste
  - construction waste
  - wastewater
  - domestic construction waste
  - ablution waste
  - waste oils and fuels
  - vehicle emissions
  - hazardous materials
  - with a view to waste reduction; reuse; recycling and other
56. The RTA must submit to the Director General – Construction Compliance Reports detailing the environmental performance of the construction works and compliance with the various conditions of approval. These reports must be prepared every three months from commencement of the project unless or otherwise advised by the Director General
- A copy of these reports is to be sent to the Councils for information and also a copy forwarded to the next available Community Forum Meeting
57. The RTA must prepare a Construction Traffic Management Plan in consultation with Manly and Mosman Councils. The plan to include but not be limited to –
- Identification of all public roads to be used by construction traffic, in particular, roads likely to be affected by closures or disruptions
  - Timing and duration of the use of these roads
  - Impacts on existing road users inc pedestrians
  - Access to construction sites
  - Truck ingress/ egress routes
  - Temporary and interim traffic arrangements
  - Strategy to minimise heavy vehicle movements through residential streets
  - Response plan for any construction traffic incident
  - Options for use by water

- Review and modification mechanisms

58. Any loss of public car parking is to be reinstated to the reasonable satisfaction of each Council at the completion of the works and prior to the opening of the bridge
59. At least four weeks (or within a time frame approved by the Director General) prior to the operation of the new bridge elements, the RTA must submit a Pre-Operation Compliance Report to the Director General. The report must detail how all the conditions that apply prior to the commencement of bridge operations were complied with and must include:
- details demonstrating how each condition was satisfied
  - details as to when each condition was satisfied
  - summarises the major issues raised through the ongoing community consultation
  - summarises major environmental issues and how they were managed
  - conditions placed on separate approvals/ licences and action taken to satisfy those conditions
  - plan of how the on going operation stage will be satisfied

Operations must not commence until the RTA has been advised in writing that all of the relevant conditions have been complied with and the report submitted to the Director General

60. The RTA must endeavour to resolve any dispute between or with public authorities, adjoining owners and the public arising out of the construction of the bridge and approaches.

If there is no resolution, then the Director General will appoint a mediator to assess, consider and resolve any dispute that is on going. The mediator will be chosen from a member of a recognised professional organisation if required or a dispute resolution expert whoever is the more competent in each case.

61. Manly and Mosman Council will be given 7 days notice of the completion of the works.
62. That the Bridge widening include provision of dedicated cycle/pedestrian lanes both on the bridge and on the approaches, as part of a dedicated active transport route from Manly to North Sydney and the Sydney CBD.
- B. That a copy of the draft conditions be forwarded to the General Manager, Mosman Municipal Council for information.
- C. That Council seek from the Minister for Infrastructure, Planning and Natural Resources a written agreement in the form of a MOU to work with SHOROC Councils to progress an integrated package of additional measures to improve both road and water-based public transport and traffic flows on the Northern Beaches.
- D. That the integrated transport package commit to investment in improved ferry and bus services, rather than the high levels of expenditure necessary to progress a road tunnel as an additional Middle Harbour crossing.
- E. That the Warren Centre Report that has been provided to Councillors and the proposals recommended in that document be forwarded to the Minister.
- F. That the matter of a weekend clearway on the eastern side of Spit Road between Spit Bridge and Spit Junction be expedited.
- G. That the RTA be invited to brief local residents on the impact of the proposal.

H. That the planning report from Consultant Planner Mr James Nangle be acknowledged.

**For the Resolution:** Councillors Lambert, Cant, Pedersen, Aird, Evans and Macdonald.  
**Against the Resolution:** Councillors Hay, Heasman, Murphy, Daley, Morrison and Norek.

*With the voting being equal the Chairperson exercised her casting vote **for** the motion and declared it **Carried**.*

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Environmental Services Division Report No. 15

**Development Applications Being Processed During March, 2005**

**SUMMARY**

Development Applications Currently Being Processed During March 2005.

**MOTION (Heasman/Pedersen)**

That the information in the Development Applications being Processed during March 2005, be noted.

**RESOLVED: (Heasman/Pedersen)**

That the information in the Development Applications being Processed during March 2005, be noted.

**For the Resolution:** Councillors Hay, Heasman, Lambert, Cant, Murphy, Daley, Morrison, Pedersen, Aird, Evans, Norek and Macdonald.

**Against the Resolution:** Nil.

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Environmental Services Division Report No. 16

**Appeals List for March 2005**

**SUMMARY**

LIST OF APPEALS RECEIVED AND THEIR CURRANT STATUS FOR COUNCILLORS' INFORMATION.

**MOTION (Pedersen/Murphy)**

That the information in the List of Appeals for March 2005, be noted.

**RESOLVED: (Pedersen/Murphy)**

That the information in the List of Appeals for March 2005, be noted.

**For the Resolution:** Councillors Hay, Heasman, Lambert, Cant, Murphy, Daley, Aird, Evans, Norek and Macdonald.

**Against the Resolution:** Nil.

*Councillor Pedersen and Councillor Morrison were not present in the Chamber when the vote was taken.*

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**CLOSE**

The meeting closed at 12.51pm

The above minutes were confirmed at a **Land Use Management Committee** of Manly Council held on 4 April 2005.

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**CHAIRPERSON**

\*\*\*\*\* END OF MINUTES \*\*\*\*\*