

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2023/0456
Responsible Officer:	Megan Surtees
Land to be developed (Address):	lot 11 DP 1026519 Maritime Lic 30002506, 39 Seaforth Crescent SEAFORTH NSW 2092 lot 11 DP 1026519 Maritime Lic 30002506, 39 Seaforth Crescent SEAFORTH NSW 2092
Proposed Development:	Modification of Development Consent DA2022/1305 granted for Alterations and additions to a dwelling house
Zoning:	Manly LEP2013 - Land zoned C3 Environmental Management
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Ronald Shaw Thomson Pamela Robertson-Gregg
Applicant:	The Trustee For Sld Trust

Application Lodged:	28/08/2023
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	04/09/2023 to 18/09/2023
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The proposed development seeks to modify DA2022/1305, which was granted consent for alterations and additions to the residential dwelling including the reconstruction of the existing incline passenger lift, elevated timber walkways, construction of a cabana with internal bathroom and storage area, and associated landscaping works to create terraced gardens.

The proposed modified works comprise the following:

- Relocation of L2 from the rear of the cabana toward the front of the cabana,
- Amendments to the cabana to remove the entrance along the north-eastern elevation,
- Removal of the approved curved bench seat, and
- Removal of the proposed deck to be replaced with landscaping.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 6.9 Foreshore scenic protection area
Manly Development Control Plan - 5.4.1 Foreshore Scenic Protection Area

SITE DESCRIPTION

Property Description:	lot 11 DP 1026519 Maritime Lic 30002506 , 39 Seaforth Crescent SEAFORTH NSW 2092 lot 11 DP 1026519 Maritime Lic 30002506 , 39 Seaforth Crescent SEAFORTH NSW 2092
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of Seaforth Crescent.</p> <p>The site is irregular in shape with a frontage of 25.17m along Seaforth Crescent and a maximum depth of 76.3m. The site has a surveyed area of 1,307m².</p> <p>The site is located within the C3 Environmental Management zone and accommodates a three storey dwelling. An attached garage is located on the west of the dwelling and the existing swimming pool is located at the rear of the dwelling on the lower ground floor terrace. An</p>

existing incline passenger lift is located along the eastern elevation of the subject site.

The site falls approximately 40m from the north to the foreshore at the south. The slope falls across the property at an average angle of 30 degrees to the waterfront.

The site contains rock outcrops, lawn areas, mature trees, garden beds and a range of low lying and medium lying shrubs. There are no details of any threatened species on the subject site.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by predominately large multi level single detached dwellings oriented to the south to maximise water views.

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

- **DA0535/2004** for alterations and additions including construction of new swimming pool was approved on 21 January 2005 by Council staff.
- **DA2022/0808** for construction of a spa was approved on 15 August 2022 by Council staff. A Construction Certificate (CC2022/1064) and Notice of Commencement (NOC2022/1061) were submitted to Council for this Development Consent.

- **DA2022/0936** for alterations and additions to a dwelling house was granted deferred commencement approval by Council's Development Determination Panel (DDP) on 12 October 2022. Following satisfaction of the deferred commencement condition, a Construction Certificate (CC2022/1224) and Notice of Commencement (NOC2022/1219) was submitted to Council for this Development Consent.
- **BC2022/0226** for the construction of authorized works relating to non-structural partitions and infill flooring to the dwelling house. This was approved on 26 October 2022 by Council staff. This Building Certificate was a requirement under the deferred commencement approval of DA2022/0936.
- **CC2022/1064** and **NOC2022/1061** for DA2022/0808 was provided to Council on 7 October 2022.
- **CC2022/1224** and **NOC2022/1219** for DA2022/0936 was provided to Council on 14 November 2022.
- **OC2023/0818** for DA2022/0936 was provided to Council on 5 September 2023.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

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

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for , in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55(1A) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55(1A) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the proposed modification is of minimal environmental impact, and	<p>Yes</p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <p>The proposed modified works do not involve the removal of vegetation and trees throughout the site. Furthermore, the change to the location of L2 will not cause unreasonable impact upon the residents of the adjoining property, being 37 Seaforth Crescent as the inclinor carriage will provide a reasonable level of visual</p>

Section 4.55(1A) - Other Modifications	Comments
	<p>privacy.</p> <p>In this instance, the proposed modified works are considered to be of minimal environmental impact.</p>
<p>(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and</p>	<p>The consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2022/1305 for the following reasons:</p> <ul style="list-style-type: none"> • reconstruction of the existing incline passenger lift, • elevated timber walkways, • construction of a cabana, and • associated landscaping works to create terraced garden areas. <p>The proposed modified works relate to L2 of the inclinators, removal of the approved curved bench seat with the foreshore area, removal of the proposed deck to be replaced with landscaping, and amendments to the cabana.</p>
<p>(c) it has notified the application in accordance with:</p> <p>(i) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.</p>
<p>(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.</p>	<p>No submissions were received in relation to this application.</p>

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental	<p>(i) Environmental Impact</p> <p>The environmental impacts of the proposed development on the natural and built environment are addressed under the</p>

Section 4.15 'Matters for Consideration'	Comments
impacts on the natural and built environment and social and economic impacts in the locality	<p>Mainly Development Control Plan section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 04/09/2023 to 18/09/2023 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The application is for modification to development consent DA2022/1305.</p> <p>The proposed amendments will not change the landscape outcome approved in DA2022/1305, and as such the original conditions remain. No further conditions are imposed.</p>
NECC (Bushland and Biodiversity)	The application seeks to modify Development Consent DA2022/1305.

Internal Referral Body	Comments
	<p>The application has been assessed against Manly LEP Clause 6.5 Terrestrial Biodiversity and State Environmental Planning Policy (Resilience and Hazards) 2021 clause 2.10 Development on land within the coastal environment area.</p> <p>The proposed modifications are located within existing built upon or disturbed areas and do not require the removal of any native vegetation, nor will the proposal impact upon fauna habitat.</p> <p>As such, the proposal is considered to comply with the applicable biodiversity controls and is designed, sited and will be managed to avoid an adverse impact to the local environment.</p>
NECC (Coast and Catchments)	<p>The modification application has been assessed in consideration of the <i>Coastal Management Act 2016</i>, State Environmental Planning Policy (Resilience & Hazards) 2021, Schedule 1 of the State Environmental Planning Policy Amendments (Water Catchments) 2022 amending the State Environmental Planning Policy (Biodiversity & Conservation) 2021 and Sydney Harbour Foreshores and Waterways Area Development Control Plan, 2005. It has also been assessed against requirements of the Manly LEP and DCP.</p> <p><i>Coastal Management Act 2016</i> The subject site has been identified as being within the coastal zone and therefore <i>Coastal Management Act 2016</i> is applicable to the proposed development. The proposed modifications are in line with the objects, as set out under Clause 3 of the <i>Coastal Management Act 2016</i>.</p> <p>State Environmental Planning Policy (Resilience & Hazards) 2021 The subject land has been included on the 'Coastal Environment Area' and 'Coastal Use Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H). Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R & H) apply for this application. Clauses 2.10 (coastal environment area) and 2.11 (coastal use area) do not apply as the site is also located within the Sydney Harbour catchment area. Hence, only Clause 2.12 of the SEPP R & H apply for this DA.</p> <p>Comment:</p> <p>On internal assessment and as assessed in the submitted Statement of Modifications report prepared by Space Landscape Designs Pty. Ltd. dated 15 August 2023, the modification application satisfies requirements under clause 2.12 of the SEPP R&H. As such, it is</p>

Internal Referral Body	Comments
	<p>considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021.</p> <p>Schedule 1 of the State Environmental Planning Policy Amendments (Water Catchments) 2022 amending the State Environmental Planning Policy (Biodiversity & Conservation) 2021</p> <p>Foreshores & Waterways Area</p> <p>The subject site is located within the Sydney Harbour Catchment and is identified as being within the Foreshores and Waterways Area. Hence Part 6.3 of the Schedule 1 of the State Environmental Planning Policy Amendments (Water Catchments) 2022 amending the State Environmental Planning Policy (Biodiversity & Conservation) 2021 will apply in assessing this DA. Development consent, among others, must consider clause 6.28.</p> <p>On internal assessment, it is determined that the relevant clauses of the Part 6.3 including the clause 6.28 have been followed.</p> <p>Manly LEP 2013 and Manly DCP</p> <p>Foreshores Scenic Protection Area Management</p> <p>The subject site is also shown to be as “Manly Foreshores Scenic Protection Area” on Council’s Foreshores Scenic Protection Area in Manly LEP 2013.</p> <p>On internal assessment and as assessed in the submitted Statement of Modifications report prepared by Space Landscape Designs Pty. Ltd. dated 15 August 2023, the application satisfies requirements under Clause 6.9 (Foreshores Scenic Protection Area) of the Manly LEP 2013 and Part 5, section 5.4.1 Foreshores Scenic Protection Area of the Manly DCP 2013. As such, it is considered that the application does comply with the requirements of the Manly DCP 2013.</p> <p>Development on Foreshore Area</p>

Internal Referral Body	Comments		
	<p>The subject site is also shown to be as “Manly Foreshores Area” on Council’s Area “within the foreshore building line Map” in Manly LEP 2013.</p> <p>The modification application proposes no works on the foreshores area and hence, the application does not require to satisfy the objectives and requirements of Part 6, Clause 6.10 of the Manly LEP 2013.</p>		
NECC (Riparian Lands and Creeks)	<p>Supported</p> <p>The proposed modifications do not alter the original assessment of the application in regards to riparian matters and the original consent conditions remain.</p>		
Parks, reserves, beaches, foreshore	<p>The application proposes modification to development consent DA2022/1305.</p> <p>Parks, Reserves and Foreshores raise no concerns.</p>		
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS		
	Discussion of reason for referral		
	<p>This application has been referred as the site has frontage to Middle Harbour which is subject to a local heritage listing - Item 11 - Harbour foreshores, listed in Schedule 5 of Manly Local Environmental Plan 2013. In this instance, it appears that the subject site is not affected by the heritage listing as mapped, however as the lot has frontage to a harbour foreshore, it is implied that it is affected by this heritage listing.</p>		
	Details of heritage items affected		
	<p>Details of this heritage item, as contained within the Heritage Inventory are:</p> <p>Item 11 - Harbour foreshores</p> <p><u>Statement of Significance</u></p> <p>Natural landscape type - Aesthetic.</p> <p><u>Physical Description</u></p> <p>Length of foreshore including natural and built elements of the landscape. Rocky sandstone ledgers, beaches, mud flats and sandstone retaining walls and timber structures.</p>		
	Other relevant heritage listings		
	SEPP (Biodiversity and Conservation) 2021	No	Comment if applicable
	Australian Heritage Register	No	

Internal Referral Body	Comments
	NSW State Heritage Register
	No
	National Trust of Aust (NSW) Register
	No
	RAIA Register of 20th Century Buildings of Significance
	No
	Other
	No
	Consideration of Application
	<p>This application proposes a modification of Consent DA2022/1305, which approved alterations and additions consisting of landscaping and other works on the lower portion of the site, including an inclinor. This modification proposes changes to the location of inclinor landing 2, subsequent changes to the cabana, along with other landscaping changes.</p> <p>No heritage concerns were raised with the original DA. The modification plans have been reviewed and these changes are minor and to not raise any heritage issues.</p> <p>Therefore, no objections are raised on heritage grounds and no conditions required.</p> <p><u>Consider against the provisions of CL5.10 of MLEP 2013:</u> Is a Conservation Management Plan (CMP) Required? NO Has a CMP been provided? N/A Is a Heritage Impact Statement required? NO Has a Heritage Impact Statement been provided? N/A</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Aboriginal Heritage Office	<p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be</p>

External Referral Body	Comments
	Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

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

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

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

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
 - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - b) coastal environmental values and natural coastal processes,
 - c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
 - d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
 - e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - f) Aboriginal cultural heritage, practices and places,
 - g) the use of the surf zone.

Comment:

This Clause is relevant to the subject site. Council's Coast and Catchments Officer has reviewed the proposed development and has not raised any issues and is satisfied the proposal can meet the requirements of this Clause.

- 2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
- a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or
 - b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

This Clause is relevant to the subject site. Council's Coast and Catchments Officer has reviewed the proposed development and has not raised any issues and is satisfied the proposal can meet the requirements of this Clause.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
- a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - i) existing, safe access to and along the foreshore, beach, headland or rock
 - ii) platform for members of the public, including persons with a disability,
 - iii) overshadowing, wind funnelling and the loss of views from public places to
 - iv) foreshores,
 - v) the visual amenity and scenic qualities of the coast, including coastal headlands, Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and
 - b) is satisfied that:
 - i) the development is designed, sited and will be managed to avoid an
 - ii) adverse impact referred to in paragraph (a), or
 - iii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or if that impact cannot be minimised—the development will be managed to mitigate that impact, and
 - c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

This Clause is relevant to the subject site. Council's Coast and Catchments Officer has reviewed the proposed development and has not raised any issues and is satisfied the proposal can meet the requirements of this Clause.

Division 5 General

2.12 Development in coastal zone generally—development not to increase risk of coastal

hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

This Clause is relevant to the subject site. Council's Coast and Catchments Officer has reviewed the proposed development and is satisfied the proposal will not increase the risk of coastal hazards.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Manly Local Environmental Plan 2013

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	3.64m	No change	N/A	Yes
Special height provisions	RL 41.58	RL 41.57	No change	N/A	Yes
Floor Space Ratio	FSR: 0.4:1 (522.8m ²)	FSR: 0.39:1 (511.1m ²) (based on approved dwelling house in addition to gross floor area of bathroom & storage space in cabana). Less than 0.4:1 when the existing dwelling is considered.	No change	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
6.2 Earthworks	Yes
6.5 Terrestrial biodiversity	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.10 Limited development on foreshore area	Yes

Detailed Assessment

6.9 Foreshore scenic protection area

Under this clause, development consent must not be granted to development on land to which this clause applies unless the consent authority has considered the following matters:

- (a) *impacts that are of detriment to the visual amenity of harbour or coastal foreshore, including overshadowing of the foreshore and any loss of views from a public place to the foreshore,*
- (b) *measures to protect and improve scenic qualities of the coastline,*
- (c) *suitability of development given its type, location and design and its relationship with and impact on the foreshore,*
- (d) *measures to reduce the potential for conflict between land-based and water-based coastal activities.*

Comment:

The proposed modified works are generally sited outside of the foreshore area, save for the removal of the approved curved bench seat. As such, the proposed modified works are considered to achieve the matters prescribed above.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 1307.0m ²	Requirement	Approved	Proposed	Complies
4.1.2.1 Wall Height	Eastern Elevation 7.6m (based on gradient 1:5.5)	2.54m - 3.09m	No change	Yes
	Western Elevation 7.9m (based on gradient 1:4.3)	3.16m - 3.74m	No change	Yes
4.1.2.3 Roof Height	Height: 2.5m	0.35m	No change	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	Eastern Boundary 1.03m (based on maximum proposed wall height)	Cabana 2.61m - 2.91m	No change	Yes

		Inclinators L1: 2.65m - 2.7m L2: 1.65m - 1.71m L3: 0.64m - 0.69m	No change No change No change	Yes Yes Yes
		Landing L1: 3.52m - 3.6m L2: 2.7m - 2.74m L3: 1.69m - 1.74m	No change to L1 and L3 L2: 1.4m - 1.52m	Yes Yes
		Decking 5.21m - 6.66m (RL12.88) 2.26m - 2.45m (RL14.32)	Deleted (as per Condition 8 of DA2022/1305) No change	Yes Yes
	Western Boundary 1.24m (based on maximum proposed wall height)	Cabana 0.93m - 2.69m	No change	Yes
		Decking & Landings 0.89m - 0.92m (RL 12.88) 4.41m - 4.45m (RL 13.42) 4.45m - 8.42m (RL 14.32)	Deleted (as per Condition 8 of DA2022/1305) No change No change	Yes Yes Yes
	Windows: 3m	Western Boundary 1.0m	No change	Yes
	4.1.4.4 Rear Setbacks	Cabana 26.0m (Mean High Water Mark [MWHM])	No change	Yes
		Landings 3.76m - 5.11m	No change	No (addressed under DA2022/1305)
4.1.4.5 Foreshore Building Lines and Foreshore Area	No encroachment (unless permissible in accordance with	Cabana Outside Foreshore Area	No change	Yes

	Cl. 6.10 of MLEP 2013)	Incline Passenger Lift Within Foreshore Area	No change	Yes (permissible under Cl. 6.10) (addressed under DA2022/1305)
		Decking & Landing 3 Within Foreshore Area	No change	Yes (permissible under Cl. 6.10) (addressed under DA2022/1305)
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS4	Open space 60% (784.2m ²) of site area	62.2% (812.8m ²)	No change	Yes
4.1.5.2 Landscaped Area	Landscaped area 40% (325.12m ²) of total open space	79.4% (623.2m ²)	No change	Yes
4.1.5.3 Private Open Space	18.0m ² per dwelling	>18.0m ²	No change	Yes

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes

Detailed Assessment

5.4.1 Foreshore Scenic Protection Area

The matters for consideration under Clause 6.9 Foreshore Scenic Protection Area of MLEP 2013 have been addressed within the aforementioned Clause within this report. In addition, the original development application considered the proposal against the further matters for consideration as detailed under 5.4.1.1 Additional matters for consideration of the Manly Development Control Plan (MDCP).

The extent of works modified under this development application are minor and does not adversely or unreasonably impact upon the foreshore scenic protection area to which the subject site is located.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2022

Section 7.12 contributions were levied on the Development Application.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs

- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2023/0456 for Modification of Development Consent DA2022/1305 granted for Alterations and additions to a dwelling house on land at lot 11 DP 1026519 Maritime Lic 30002506,39 Seaforth Crescent, SEAFORTH, lot 11 DP 1026519 Maritime Lic 30002506,39 Seaforth Crescent, SEAFORTH, subject to the conditions printed below:

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
Mod2023/0456	The date of this notice of determination	Modification of Development Consent DA2022/1305 granted for Alterations and additions to a dwelling house Modify Condition 1 Approved Plans and supporting documentation

Modified conditions

A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting documentation, to read as follows:

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
DA-01	F	Site Plan & Site Analysis	Space Landscape Designs	7 August 2023
DA-03	F	Demolition Plan	Space Landscape Designs	8 August 2023
DA-04	E	Section Elevations	Space Landscape Designs	8 August 2023

DA-05	E	Cut & Fill Plan	Space Landscape Designs	8 August 2023
DA-07	E	Landscape Plan	Space Landscape Designs	8 August 2023
L-08	C	Cabana Floor & Roof Plan	Space Landscape Designs	8 August 2023
01	G	Site Plan	Railius	16 December 2021
02	G	Sections	Railius	16 December 2021

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
DA-06 Erosion & Sediment Control Plan	E	Space Landscape Designs	8 August 2023
Geotechnical comments for Section 4.55	J4201E	White Geotechnical Group	22 August 2023

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

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

In signing this report, I declare that I do not have a Conflict of Interest.

Signed



Megan Surtees, Planner

The application is determined on 21/09/2023, under the delegated authority of:



Adam Richardson, Manager Development Assessments