

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2018/1187
<b>Responsible Officer:</b>	Adam Croft
<b>Land to be developed (Address):</b>	Lot 1 DP 511797, 4 Pacific Parade MANLY NSW 2095
<b>Proposed Development:</b>	Alterations and additions to an existing semi-detached dwelling including a swimming pool
<b>Zoning:</b>	Manly LEP2013 - Land zoned R1 General Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Delegation Level:</b>	DDP
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Russell Craig Barry Kate Gwen O'Ryan-Roeder
<b>Applicant:</b>	Thodey Design
<b>Application lodged:</b>	11/07/2018
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	17/07/2018 to 02/08/2018
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Recommendation:</b>	Approval
<b>Estimated Cost of Works:</b>	\$ 723,056.33

### 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 - 4.6 Exceptions to development standards

Manly Local Environmental Plan 2013 - 6.2 Earthworks

Manly Development Control Plan - 3.3.1 Landscaping Design

Manly Development Control Plan - 3.3.2 Preservation of Trees or Bushland Vegetation

Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing

Manly Development Control Plan - 3.4.2 Privacy and Security

Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation

Manly Development Control Plan - 4.1.5 Open Space and Landscaping

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

Manly Development Control Plan - 4.4.5 Earthworks (Excavation and Filling)

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 511797 , 4 Pacific Parade MANLY NSW 2095
<b>Detailed Site Description:</b>	<p>The subject site consists of one allotment located on the northern side of Pacific Parade.</p> <p>The site is regular in shape with a frontage of 6.06m along Wanganella Street and a depth of 36.575m. The site has a surveyed area of 223.2m<sup>2</sup>.</p> <p>The site is located within the R1 General Residential zone and accommodates a semi-detached dwelling.</p> <p>The site is generally flat.</p> <p>The site includes minimal landscaped area and two trees in the rear yard.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by detached and semi-detached dwelling and dual occupancies.</p>

Map:



## SITE HISTORY

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

The land has been used for residential purposes for an extended period of time.

## PROPOSED DEVELOPMENT IN DETAIL

The proposal includes alterations and additions to the existing dwelling resulting in:

Ground Floor:

- Kitchen, rear living and dining room
- Living room
- Two bedrooms

First Floor:

- Master bedroom with ensuite and walk in robe
- Bedroom
- Bathroom
- Study area

External:

- Rear pergola and outdoor kitchen
- Swimming pool
- Demolition of existing shed and covered BBQ
- Changes to rear decking
- New storage under front deck

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
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)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 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 50(1A)</u> of the EP&amp;A Regulation 2000 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 54 and 109</u> of the EP&amp;A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 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 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the</p>

Section 4.15 Matters for Consideration'	Comments
	<p>consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p>Clause 143A of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> 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 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

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

## MEDIATION

No requests for mediation have been made in relation to this application.

## REFERRALS

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)\*

All, Environmental Planning Instruments (SEPPs, REPs 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, REPs 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)

Nil

## Manly Local Environmental Plan 2013

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

## Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	7.4m	N/A	Yes
Floor Space Ratio	0.6:1 133.92m <sup>2</sup>	0.67:1 150.4m <sup>2</sup>	12.3%	No

## Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	No
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes



Clause	Compliance with Requirements
6.4 Stormwater management	Yes
6.12 Essential services	Yes

#### Detailed Assessment

#### **4.6 Exceptions to development standards**

The following assessment of the variation to the Clause 4.4 Floor space ratio development standard has taken into consideration the questions established in Winten Property Group Limited v North Sydney Council (2001) NSW LEC 46.

Requirement:	0.6:1 (133.92m <sup>2</sup> )
Proposed:	0.67:1 (150.4m <sup>2</sup> )
Is the planning control in question a development standard?	YES
Is the non-compliance with to the clause requirement a Numerical and / or Performance based variation?	Numerical
If numerical enter a % variation to requirement	12.3%

The proposal must satisfy the objectives of Floor Space Ratio, the underlying objectives of the particular zone, and the objectives of Clause 4.6 - Exceptions to Development Standards under the MLEP 2013. The assessment is detailed as follows:

#### **Is the planning control in question a development standard?**

The prescribed Floor space ratio limitation pursuant to Clause 4.4 of the MLEP 2013 is a development standard.

#### **What are the underlying objectives of the development standard?**

The underlying objectives of the standard, pursuant to Clause 4.4 – 'Floor space ratio' of the MLEP 2013 are:

(1) The objectives of this clause are as follows:

*a) to ensure the bulk and scale of development is consistent with the existing and desired streetscape character,*

#### Comment:

The proposal is compliant with the height of buildings development standard under the Manly LEP, in addition to compliant wall height, number of storeys and roof height. The proposal is similar in scale to surrounding developments and the proposed first floor addition is located behind the existing ridge in order to maintain the single-storey facade. The existing rear building line is maintained and the proposed roof form also minimises the bulk of the dwelling. As the additions are located behind the existing roof and are reasonable in terms of bulk and scale, the proposal will remain consistent with the streetscape.

*b) to control building density and bulk in relation to a site area to ensure that development does not obscure important landscape and townscape features,*

Comment:

The proposed first floor addition is a compliant height and is contained within the existing building footprint. As such, the proposed building bulk is not excessive and will not obscure any important landscape or townscape features.

*c) to maintain an appropriate visual relationship between new development and the existing character and landscape of the area,*

Comment:

Despite the proposed FSR and setback non-compliances, the proposal remains generally consistent with the surrounding development and is set back behind the existing dwelling roof. The existing narrow allotment and setbacks will further obscure the proposed works from the streetscape and wider public domain. As such, the proposed development will maintain an appropriate visual relationship with the existing character and landscape of the area.

*d) to minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain,*

Comment:

The proposed development will result in no unreasonable impact on the use or enjoyment of adjoining land. A full assessment of amenity impacts is completed under Part 3 General Principles of Development.

*e) to provide for the viability of business zones and encourage the development, expansion and diversity of business activities that will contribute to economic growth, the retention of local services and employment opportunities in local centres.*

Comment:

N/A

### **What are the underlying objectives of the zone?**

In assessing the developments the non-compliance, consideration must be given to its consistency with the underlying objectives of the <insert zone> zone.

The underlying objectives of the R1 Low Density Residential zone:

- *To provide for the housing needs of the community.*

Comment:

The proposal retains the existing residential use.



It is considered that the development satisfies this objective.

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

Comment:

The proposal will retain the existing housing type and density.

It is considered that the development satisfies this objective.

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

Comment:

N/A

It is considered that the development satisfies this objective.

#### **Is the variation to the development standard consistent with the objectives of Clause 4.6 of the MLEP 2013?**

(1) The objectives of this clause are as follows:

*(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development.*

Comment:

The proposed development, as assessed, will result in no unreasonable amenity impacts on the adjoining properties or visual impact on the streetscape. As such, it is relevant in this case to provide an appropriate degree of flexibility in applying the floor space ratio development standard.

*(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Comment:

Allowing flexibility in this circumstance will achieve a better outcome through the provision of greater GFA and variety in dwelling sizes, while maintaining the amenity of the surrounding area.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

*(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

*(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

Comment:

The applicant has provided the following justification in relation to subclause (3):

*"Part 1: Demonstrates why compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.*

*a) The proposal's increase in bulk takes into consideration the contribution of the existing building and enhances the character of the area by maintaining and not altering the principal street frontage of Pacific Parade. The change in bulk only occurs at the rear where this is already a rear L1 bedroom. The adjoining property (6 Pacific Parade) also has a rear Level 1 structure. The increase in bulk towards the rear is a typology that is seen in many houses along Pacific Parade; in submissions that have been recently approved but that are also undergoing the approval process currently. The bulk in this case is also limited to the existing rear building line so as to provide minimal disruption. An example of recently approved rear L1 structures can be seen in the following properties:*

- 50 Pacific Parade- FSR Allowed: 0.606:1 (Approval Date 20/2/17)*
- 48 Pacific Parade- FSR Allowed: 0.79:1 (Approval Date 24/4/13)*
- 36 Pacific Parade- FSR Allowed: 0.77:1 (Approval Date 24/5/17)*
- 3 Pacific Parade- FSR Allowed: 0.64:1 (Approval Date 21/4/17)*

*b) Our proposal will not disrupt the amenity or privacy of any neighbours. The windows provided to the ground and first floor look over the rear of the property. All windows to Level 1 are accompanied by awnings for additional privacy but also as a BASIX requirement. New windows to side elevation on Ground Floor emulate what is existing and new windows to L1 side elevation are either opaque glazing or have privacy film up to a sill height of 1600mm FFL (in addition to awnings); hence demonstrating that privacy and amenity to all surrounding neighbours has been considered.*

*c) There will be no adverse overshadowing to any neighbours as the new structure is similar to bulk and scale to what is existing. All properties adjacent also enjoy a two storey rear typology and the additional shadows are minimal in comparison to the shadows currently present. Refer to Shadow Diagrams prepared by Thodey Design. Due to the rear building line remaining the same, the extra shadows have been significantly limited.*

*d) The scale of the proposal is modest, and we believe it is impossible to maintain the FSR for a contemporary home for a growing family. The additional space occurs in the need to provide adequate living areas and additional bedrooms for a growing family. The Level 1 addition features a*

*large void for the sake of airflow and ventilation and is essential to allow light to enter the property where it currently does not now. All neighbouring properties have been consulted prior to the lodgement of this DA and all are supportive of the proposal. As can be seen by the two storey bulk*

*and typology within Pacific Parade; we believe that we are not proposing a design that is unreasonable or unlike the same demands of those properties within the same street. The additional space in the proposal is needed to maximise the utility of the existing building for a growing family*

*and provide ample living areas for the demands of a growing family.*

*e) The additional bulk to the rear does not interfere with the principal street façade. We have chosen to highlight and maintain the cottage design typology and character of the building by not altering the principal façade to Pacific Parade in order to respect the typology of the building and also those that it replicates along the street. The new addition is not visible from the street in its majority; and the roof form and external wall that is slightly visible from the street; matches the*

current roof pitch and replicates the materials and character of the existing dwelling. The design palette is neutral; with new neutral coloured weather board cladding proposed to the existing and new weatherboard cladding. The new pitched roof follows the same pitch as the current existing pitch; but is a skillion form to highlight a modern approach and therefore create a clear juxtaposition of old and new. We believe we have created a design that is both functional and respectful of it's current locale.

f) The development as a whole retains council's DCP controls for setbacks. g) The development as a whole provides ample private open space, landscaped area and is under the allowable open space above ground requirements. It does not comply with total open space but only because this is an existing contravention to the standard required and is the only DCP requirement that has not been able to be met.

h) The height of the proposal is well below the restricted 8.5M (proposed at 7.29M at highest point). - The rear building line only extends from the current building line (where there is currently a two storey typology) by 900mm. The additional space is necessary for the void to L1 to bring in natural light and ventilation and allowing more clever and passive design to be implemented. The house currently does not enjoy ample natural light or useable living areas. The direct neighbour has a rear living area that currently sits lower than the proposed rear ground floor of the subject site and therefore has access to ample living area.

i) Many properties in the street (refer to point (a) above) have requested and been granted above and beyond the stipulated maximum FSR. We ask that this proposal be read in the same manner and understanding; showing that the need for increased FSR is unavoidable when wanting to create an amenable and functional home for a growing family. As can be seen throughout the street in these determinations; our proposal is no different and we ask that it should be considered within the same merits as these that have been determined.

*Part 2: Demonstrates that there are sufficient environmental grounds to justify contravening the development standard.*

- The increase in FSR, as demonstrated in part 1, will have no environmental effects on the principal Street streetscape. There will be minimal environmental effect to either neighbour in regards to views, privacy and overshadowing. There are therefore sufficient grounds to justify contravening the development standard of Floor Space Ratio. All other standards have been met and the proposal mimics the double storey typology in the street and is reasonable. Its reasonable request can be supported in that there are many other proposals in the street that have also asked for similar or more generous FSRs and their determinations have been assessed and granted. The direct neighbour has a rear living area that currently sits lower than the proposed rear ground floor of the subject site and therefore has access to ample living area. In regard to sloping of the street in this direction; it is not unreasonable for this proposal to sit prouder of this direct neighbour."

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

Comment:

The applicant's written request is considered to adequately address the matters required to be demonstrated by subclause (3). Council is satisfied that compliance with the control is unreasonable and unnecessary and the objectives of the control and zone are achieved.

*(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

Comment:

For reasons detailed above, the proposal is considered to be consistent with the objectives of the R1 General Residential zone in the MLEP 2013.

*(b) the concurrence of the Director-General has been obtained*

Comment:

Planning Circular PS 18-003 dated 21 February 2018, as issued by the NSW Department of Planning, advises that the concurrence of the Director-General may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument where the variation to a numerical standard is not greater than 10%. Following the release of PS 18-003, Council received correspondence from a delegate of the Secretary which granted Council staff, for 12 months from 1 March 2018, the ability to assume the Secretary's concurrence for Class 1 buildings which seek to vary a development standard by more than 10%.

As the application seeks to vary the development standard by more than 10% the concurrence of the Secretary is assumed subject to determination by Council's Development Determination Panel.

## 6.2 Earthworks

The proposed excavation is limited to the swimming pool.

### Manly Development Control Plan

#### Built Form Controls

Built Form Controls - Site Area: 223.2m <sup>2</sup>	Requirement	Proposed	Complies
4.1.2.1 Wall Height	Eastern: 6.5m	5.8m - 6.2m	Yes
4.1.2.2 Number of Storeys	2	2	Yes
4.1.2.3 Roof Height	Height: 2.5m	1.1m	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	4.66m	Existing
4.1.4.2 Side Setbacks and Secondary Street Frontages	Eastern: 1.9m - 2.1m	1.1m	No
4.1.4.4 Rear Setbacks	8m	8.051m	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area 122.76m <sup>2</sup>	33.8% 75.5m <sup>2</sup>	Existing
4.1.5.2 Landscaped Area	Landscaped area 35% of open space 24.7m <sup>2</sup>	52.3% 39.5m <sup>2</sup>	Yes
4.1.5.3 Private Open Space	18m <sup>2</sup> per dwelling	> 18m <sup>2</sup>	Yes

4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m 3.03m	2.8m	Yes
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	0.75m	Yes
	1m curtilage	0m	No
	1.5m water side/rear setback	1m - 1.13m	No
Schedule 3 Parking and Access	Dwelling 2 spaces	1 space	Existing

**\*Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example:  $38/40 \times 100 = 95$  then  $100 - 95 = 5\%$  variation)

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	No	Yes
3.4.2 Privacy and Security	No	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.7 Stormwater Management	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes

#### Detailed Assessment

##### **3.3.1 Landscaping Design**

Sufficient landscaped area is proposed on the site in the context of the surrounding area.

##### **3.3.2 Preservation of Trees or Bushland Vegetation**

No tree or vegetation removal is included in the proposal.

##### **3.4.1 Sunlight Access and Overshadowing**

#### Merit consideration:

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

*Objective 1) To provide equitable access to light and sunshine.*

Comment:

Taking into account the predominant built form and setbacks of the surrounding area, the proposed does not cause unreasonable overshadowing of adjoining properties. At 9am there is additional overshadowing of the adjoining semi-detached dwelling at No. 6 Pacific Parade. At 12pm there is minor additional overshadowing of the existing ground floor roof of the subject dwelling. At 3pm there is significant overshadowing of the ground floor windows and outdoor areas of the adjoining property No. 2 Pacific Parade.

*Objective 2) To allow adequate sunlight to penetrate:*

- *private open spaces within the development site; and*
- *private open spaces and windows to the living spaces/ habitable rooms of both the development and the adjoining properties.*

Comment:

The proposal maintains adequate sunlight access to the windows and private open spaces of the subject site and adjoining properties.

*Objective 3) To maximise the penetration of sunlight including mid-winter sunlight to the windows, living rooms and to principal outdoor areas by:*

- *encouraging modulation of building bulk to facilitate sunlight penetration into the development site and adjacent properties; and*
- *maximising setbacks on the southern side of developments to encourage solar penetration into properties to the south.*

Comment:

The proposal is appropriately designed with a low building height and modulated roof form to minimise the bulk of the dwelling. As such, the bulk of the dwelling and resultant overshadowing have been minimised despite the existing built forms found in the surrounding area.

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

### **3.4.2 Privacy and Security**

Merit consideration:

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

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



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

Comment:

The proposal will result in no unreasonable privacy or overlooking impacts. All first floor windows to the eastern elevation are either fully opaque or opaque up to a height of 1.6m above finished floor level. The proposed ground and first floor rear windows are sufficiently set back from the rear boundary to mitigate any potential privacy impacts. The usability and overall impact of the proposed swimming pool is restricted by its minimal size.

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

Comment:

The proposal provides sufficient privacy and sunlight access to the subject site and adjoining properties.

*Objective 3) To encourage awareness of neighbourhood security.*

Comment:

Existing opportunities for passive surveillance are retained.

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

#### **4.1.4 Setbacks (front, side and rear) and Building Separation**

Description of non-compliance

The proposed eastern side first floor setback is non-compliant.

Merit consideration:

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

*Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.*

Comment:

The proposed front setback remains consistent with the streetscape and the non-compliant side wall is located behind the existing ridge, approximately 13m from the front boundary.

*Objective 2) To ensure and enhance local amenity by:*

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

Comment:

All windows in the non-compliant wall are suitably designed for privacy and a full assessment of sunlight access is completed under Part 3 General Principles of Development. The proposal will result in no unreasonable impacts in relation to privacy, sunlight access, views, streetscape character or traffic conditions.

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

Comment:

The proposed setbacks are considered adequate in the context of the site and surrounding area.

*Objective 4) To enhance and maintain natural features by:*

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

Comment:

The proposed non-compliance does not result in any reduction to landscaped area.

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

Comment:

N/A

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

#### **4.1.5 Open Space and Landscaping**

The total open space non-compliance is existing.

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

The site as existing contains only one car parking space. The provision of an additional space would result in unreasonable visual impact on the streetscape and further front and side setback non-compliances.

#### **4.4.5 Earthworks (Excavation and Filling)**

The proposed excavation is limited to the swimming pool.

### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly effect 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**

#### **Manly Section 94 Development Contributions Plan**

S94 Contributions are not applicable to this 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 2000;
- 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 Development Consent to DA2018/1187 for Alterations and additions to an existing semi-detached dwelling including a swimming pool on land at Lot 1 DP 511797, 4 Pacific Parade, MANLY, subject to the conditions printed below:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

#### 1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

##### a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
DA-00 Site and Roof Plan	Issue B, 28 August 2018	Thodey Design
DA-03 Proposed Floor Plans	Issue B, 28 August 2018	Thodey Design
DA-04 Elevations	Issue B, 28 August 2018	Thodey Design
DA-05 Elevations - Sheet 2	Issue B, 28 August 2018	Thodey Design
DA-06 Sections	Issue B, 28 August 2018	Thodey Design

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Certificate No. A320287_04	10 July 2018	Thodey Design

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

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

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

#### 2. **Prescribed Conditions**

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon

plans/specifications is required prior to the issue of the Construction Certificate);

- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.
- Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative Requirement (DACPLB09)

### 3. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (j) Prior to the commencement of any development onsite for:
- i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place



- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (k) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

## FEES / CHARGES / CONTRIBUTIONS

### 4. Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment)

is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)).

Reason: To ensure adequate protection of Council's infrastructure.

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

### 5. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)


### 6. **Fencing**

The proposed fencing in the rear yard is to be contained wholly within the subject site and is to be a maximum of 2m above ground level at any point.


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

Reason: No adjoining owner's consent was provided for boundary fencing; to maintain the amenity of private open space on the subject site and adjoining properties.





























**ATTACHMENT A**

Notification Plan	Title	Date
 2018/446215	Plan - Notification	10/07/2018

**ATTACHMENT B**

Notification Document	Title	Date
 2018/453040	Notification Map	17/07/2018

## ATTACHMENT C

Reference Number	Document	Date
 2018/446208	Builders Quote	26/04/2018
 2018/446213	Report - BASIX Certificate	10/07/2018
 2018/446210	Report - Statement of Environmental Effects	10/07/2018
 2018/446214	Report - Clause 4.6 (FSR)	10/07/2018
 2018/446215	Plan - Notification	10/07/2018
 2018/446218	Plans - Stormwater	10/07/2018
 2018/446217	Plans - Certification of Shadow Diagrams with Plans	10/07/2018
 DA2018/1187	4 Pacific Parade MANLY NSW 2095 - Development Application - Alterations and Additions	11/07/2018
 2018/446152	DA Acknowledgement Letter - Thodey Design	12/07/2018
 2018/446216	Plans - Survey	12/07/2018
 2018/446239	Plans - Master Set	12/07/2018
 2018/446234	Plans - External	12/07/2018
 2018/446236	Plans - Internal	12/07/2018
 2018/446205	Development Application Form	12/07/2018
 2018/446206	Applicant Details	12/07/2018
 2018/452999	ARP Notification Map	17/07/2018
 2018/453019	DA Acknowledgement Letter (not integrated) - Thodey Design	17/07/2018
 2018/453040	Notification Map	17/07/2018
 2018/453046	Notification Letter - 15	17/07/2018
 2018/487772	DA Notification sign on display - DA2018/1187 4 Pacific Parade Manly	02/08/2018
 2018/519575	Working Plans	15/08/2018
 2018/536071	Request for Withdrawal of Development Application - Thodey Design	22/08/2018
 2018/546668	Incoming email Re: Amended plans & additional info	28/08/2018
 2018/548449	Report - Statement of Environmental Effects - Revised	28/08/2018
 2018/548462	Report - Exception to the Development Standards	28/08/2018
 2018/548466	Plans - Master Set - Amended	28/08/2018
 2018/548474	Plans - External - Amended	28/08/2018
 2018/548477	Plans - Shadow Diagrams - Amended	28/08/2018
2018/580714 DA2018/1187	Working Plans - Amended	06/09/2018



2018/620192

Site Photos

25/09/2018

## PANEL PLANS

No plans titled 'DDP Panel Plans' found in TRIM.