

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2019/0486
<b>Responsible Officer:</b>	Ashley Warnest
<b>Land to be developed (Address):</b>	Lot 16 DP 1189590, 23 Spring Cove Avenue MANLY NSW 2095
<b>Proposed Development:</b>	Modification of Development Consent DA482/2004 for alterations and additions to a dwelling house
<b>Zoning:</b>	Manly LEP2013 - Land zoned E4 Environmental Living
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Enda Thomas Hughes Trustees Roman Catholic Church Archdiocese Sydney
<b>Applicant:</b>	Enda Thomas Hughes
<b>Application Lodged:</b>	08/10/2019
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	18/12/2019 to 23/01/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### PROPOSED DEVELOPMENT IN DETAIL

The proposal is for the modification of development consent DA482/2004. The proposed works are as follows:

- A stainless steel gas flue projecting one metre above the existing roof line to accommodate a new gas fireplace
- Solar Panels on the roof
- Concrete storage area to the north-west corner of the site
- New external finishes including 'Barestone' concrete panelling to the elevations

### 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 Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation  
Manly Development Control Plan - 4.1.9 Swimming Pools, Spas and Water Features

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 16 DP 1189590 , 23 Spring Cove Avenue MANLY NSW 2095
<b>Detailed Site Description:</b>	<p>The subject site consists of one allotment located on the southern side of Spring Cove Avenue.</p> <p>The site is irregular in shape with a frontage of 10m along Spring Cove Avenue and a depth of 24m. The site has a surveyed area of 360.7m<sup>2</sup>.</p> <p>The site is located within the E4 Environmental Living zone and accommodates an existing two storey residential dwelling house.</p> <p>The site contains two canopy trees with a variety of low-lying native vegetation plants.</p> <p><u>Detailed Description of Adjoining/Surrounding Development</u></p> <p>Adjoining and surrounding development is characterised by similar two storey residential dwelling houses.</p>

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:

- Development Application - 482/2004  
Subdivision of Lot 2 DP 544297 being Precincts 4, 5, 6, 10 and 11 into 21 Allotments being 17 Residential lots for Individual Dwellings, Lot 1 for 5 Townhouses, 1 Lot for 16 Apartments, 1 Lot containing road and landscape areas and 1 Lot comprising precinct 4 and 11 of the St Patrick's Estate and construction of 11 Residential Apartments, 5 Townhouses and 17 Detached Dwellings at Precincts 5, 6 & 10 St Patrick's Estate. Determined 24/01/2007.
- Modification Application - 482/2004 - Part 15  
Modification of Development consent No. 482/2004. Determined 04/08/2017.

## 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 DA 482/2004, in full, with amendments detailed and assessed as follows: The development remains largely unaltered in appearance, setback, height and scale. No additional impact will arise as a result of the changes.

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><b>Yes</b></p> <p>The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons:</p> <ul style="list-style-type: none"> <li>• The proposal will not alter the previously approved building footprint or built form</li> <li>• When viewed from the public domain or from the neighbouring properties, the development will largely present the same visual impact and appearance to that originally approved</li> </ul>
(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>The development, as proposed, has been found to be such that Council is satisfied that the proposed works are substantially the same as those already approved under DA 482/2004 for the following reasons:</p> <ul style="list-style-type: none"> <li>• The development remains largely unaltered in appearance, setback, height and scale</li> <li>• No additional impact will arise as a result of the changes.</li> </ul>
<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 2000, Manly Local Environment Plan 2013 and Manly Development Control Plan.</p>
(d) it has considered any submissions made concerning the proposed modification within any period prescribed	<p>See discussion on "Notification &amp; Submissions Received" in this report.</p>

Section 4.55(1A) - Other Modifications	Comments
by the regulations or provided by the development control plan, as the case may be.	

### 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	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
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 in the original consent.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</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 matter has been addressed via a condition in the original consent/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 in the original consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent</p>



Section 4.15 'Matters for Consideration'	Comments
	<p>authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent.</p> <p>Clause 98 of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent.</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 classified as bush fire prone land. Section 4.14 of the Environmental Planning and Assessment Act 1979 requires Council to be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection.

A Bush Fire Report was submitted with the application that included a certificate (prepared by Bush Fire Planning Services, dated 16/11/2018) stating that the development conforms to the relevant specifications and requirements within Planning for Bush Fire Protection. The recommendations of the Bush Fire Report have been included as conditions of consent.

## 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 process council is in receipt of 1 submission/s from:

Name:	Address:
Mr Grant Philipp	Address Unknown

The following issues were raised in the submissions and each have been addressed below:

- Neighbours were not notified of Modification Application**

Comment

The application was initially incorrectly notified. The application was therefore re-notified.

- Proposed solar panels extend past the approved height of the approved dwelling and impact upon views from the property of 22 Spring Cove Avenue.**

Comment

The solar panels proposed on the upper northern section of the roof were not supported by NSW Heritage. The lower section of solar panels has been supported as part of the General Terms of Approval. The solar panels will not result in view loss from the adjoining property of 22 Spring Cove.

- Various inconsistencies between previous approval and the constructed dwelling. These inconsistencies include the clothes line is located along the eastern fence and visible from adjoining properties, existing concrete slab located to the front of the house, fencing and planting does not comply with the Long Nose Bandicoot habitat requirements, and a portion of cladding along the eastern external wall of the garage has not been completed.**

Comment

These matters have been raised with Councils Compliance team for investigation.

## REFERRALS

Internal Referral Body	Comments
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS
	Discussion of reason for referral
	<p>This modification has been referred as the property sits within the boundary of a State heritage item, being <b>Item I131 - St Patrick's Estate</b>, which is listed on the State Heritage Register and also within Schedule 5 of Manly Local Environmental Plan 2013.</p> <p>It is also located within the vicinity of a number of other heritage items, being <b>Item I229 - Group of houses, 87-97 Stuart Street; Item I230 - Public reserve and 2 Norfolk Island Pine trees, Item I230 -103</b></p>

Internal Referral Body	Comments
	<p><b><i>Stuart Street (adjacent to Spring Cove).</i></b></p> <p>As a State heritage listed item, comments are required from Heritage NSW and the applicant needs to separately obtain approval under the Heritage Act, 1977.</p> <hr/> <p>Details of heritage items affected</p> <p>Details of this State heritage item as contained within the Manly Heritage Inventory are:</p> <p><b><i>1131 - St Patrick's Estate</i></b>  <u>Statement of Significance</u>  St Patrick's Estate is a place of outstanding heritage significance to NSW and Australia. The 1885-1935 buildings and grounds of the estate make up one of Australia's most outstanding collegiate ensembles unrivalled for its completeness, grandeur and extraordinary siting. A monument to the establishment of Catholicism and the Catholic priesthood in Australia, St Patrick's Estate represents Australia's first national Catholic ecclesiastical seminary, the largest in the southern hemisphere at the time of its construction, the official national residence for the Archbishop for nearly a century, one of Australia's most extensive ecclesiastical estates and one of the oldest land grants to the Catholic Church. The College and the Archbishop's Residence have historical significance as important physical manifestations of Cardinal Moran's concepts and plans for the development of Catholicism in Australasia. The buildings have historical significance also for their associations people involved in the development of the College and Australia's priesthood. St Patrick's Estate is an outstanding landmark of Victorian Gothic architecture and natural splendour. The siting of the major buildings, their architectural style, impressive scale, and quality of design and construction are of aesthetic and social significance as they reflect the Catholic Church and Cardinal Moran's ambition that the Church's public buildings should aspire to reflect to the world the splendour of its spiritual ambitions and contribute to the fabric of national structures, worthy of a growing nation; and provide a legacy of grand ecclesiastic architecture. St Patrick's College is of aesthetic significance as it physically dominates the surrounding landscape of this part of North Head. The design of the buildings themselves is of aesthetic and social significance. The design reflects its role as a seminary and the special environment developed to encourage a devotion to the religious life is illustrated strongly in its layout.</p> <p>The College is socially significant to Australian Catholics, because it is a symbol of training Australian-born priests and centralising administration policy and education for the region. The St Patrick's Estate and in particular Moran House is socially significant to the wider community because of its visual prominence - it is a Manly</p>



Internal Referral Body	Comments		
	landmark. Isolated physically and geographically on the Manly site, the Seminary buildings reflected the Church's perceptions of its special position and needs in the late 19th century. Social and cultural changes are evident in the further development of the site during the 20th century. The St Patrick's Estate has a significant relationship with the natural environment of North Head. Although isolated from the remainder of North Head by the construction of the sandstone boundary walls and the substantial clearing of the indigenous vegetation on the Estate, the St Patrick's Estate still maintains		
	Other relevant heritage listings		
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	Comment if applicable
	Australian Heritage Register	No	
	NSW State Heritage Register	YES	
	National Trust of Aust (NSW) Register	YES	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	No	
	Consideration of Application		
	This application is a request for modification of consent for the approved dwelling on the subject land, which has already been constructed.		
	This modification seeks minor design changes which include a stainless steel gas flue and solar panels on the roof, a concrete storage area and addition of barestone concrete panelling. The proposed changes do not affect the overall scale or bulk of the approved dwelling, but do affect the visual look of the dwelling. It is considered that these external changes will not have an adverse impact upon the identified heritage significance of St Patricks Estate nor on any the heritage items in the vicinity.		
	As the application affects a State heritage listed item, the application is Integrated Development and requires consultation with Heritage NSW and eventual approval under Section 60 of the Heritage Act, 1977. Heritage NSW have responded by letter dated 20 March 2020, providing General Terms of Approval for this integrated development application. These comments have been reviewed and all required Terms of Approval (conditions) are agreed with.		

Internal Referral Body	Comments
	<p><b>Therefore, no objections are raised on heritage grounds, subject to all terms of approval (conditions) required by Heritage NSW, being included in any consent.</b></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? Yes  Has a Heritage Impact Statement been provided? Yes</p>

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.
Nominated Integrated Development – NSW Office of Environment and Heritage	<p>The application was referred to the Heritage Council of NSW, who provided Amended General Terms of Approval. These have been included as a condition of consent.</p> <p>NSW Heritage also advised they are unable to grant approval for the works that have already been undertaken. These works include the stainless steel flue and the 'barestone' cement cladding. This issue has been referred to Council's Compliance Department for any action if necessary. However, given that the Heritage Council has issued General Terms of Approval for the proposed modifications, the current application can proceed to determination.</p>

## 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)

### SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 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 Clause 7 (1) (b) and (c) of

SEPP 55 and the land is considered to be suitable for the residential land use.

### SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 772198S\_03).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	40

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

### SEPP (Infrastructure) 2007

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

#### Comment

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.

### SEPP (Coastal Management) 2018

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

#### 11 Development on land in proximity to coastal wetlands or littoral rainforest

- (1) *Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
- (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
  - (b) *the quantity and quality of surface and ground water flows to and from the adjacent*

*coastal wetland or littoral rainforest.*

Comment

The proposed works are not likely to cause an adverse impact upon the matters identified in this clause.

**13 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

The proposed works are not likely to cause an adverse impact upon the matters identified in this clause. The proposed alterations and additions do not discourage public access or amenity along the foreshore area nor impact on natural foreshore processes.

- (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 subclause (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

Council is satisfied the proposed works are designed, and can be managed, to avoid adverse impacts based upon the matters identified in this clause.

**14 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 platform*

- for members of the public, including persons with a disability,*
- (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*
  - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,*
  - (iv) Aboriginal cultural heritage, practices and places,*
  - (v) cultural and built environment heritage, and*
- (b) *is satisfied that:*
- (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
  - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
  - (iii) 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

The proposal does not impact upon the existing and safe access to and along the foreshore. The visual amenity from private and public space is not adversely effected and the surrounding area consists of examples of similar developments.

The foreshore area is mapped as having a high likelihood of containing Aboriginal heritage sites. The foreshore area is heavily modified and no sites have been identified within the vicinity of the proposed development. The proposed works are not likely to cause an adverse impact upon the matters identified in this clause. A condition of consent has been imposed to stop works if any Aboriginal Engravings or Relics are unearthed.

### **15 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

Council is satisfied that the proposed development is unlikely to cause increased risk of coastal hazards on the subject land or other land.

As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

### **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	Complies
Minimum subdivision lot size:	1/250m <sup>2</sup>	1/591.3m <sup>2</sup>	unchanged	Yes
Height of Buildings:	8.5m	7.9m	unchanged	Yes
Floor Space Ratio	0.60:1	0.49:1	unchanged	Yes

### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
5.8 Conversion of fire alarms	Yes
5.10 Heritage conservation	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	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
6.12 Essential services	Yes
6.13 Design excellence	Yes
6.14 Requirement for development control plans	Yes
6.19 Development in St Patrick's Estate	Yes
Schedule 5 Environmental heritage	Yes

### Mainly Development Control Plan

#### Built Form Controls

Built Form Controls	Requirement	Approved	Proposed	Complies
4.1.2.1 Wall Height	E: 7.5m	7.5m	unchanged	Yes
	W: 7.5m	7.5m	unchanged	Yes
4.1.2.2 Number of Storeys	2	2	unchanged	Yes
4.1.2.3 Roof Height	Parapet Height: 0.6m	0.6m	unchanged	Yes
4.1.4.2 Side Setbacks	E: 2.5m (based on wall height)	1m	unchanged	No
	W: 2.5m (based on wall height)	1m	unchanged	No
	Windows: 3m	1m	unchanged	No
4.1.4.4 Rear Setbacks	8m	8m	unchanged	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area	64%	unchanged	Yes

4.1.5.2 Landscaped Area	Landscaped area 35% of open space	71%	unchanged	Yes
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	< 1m	unchanged	Yes
	1m curtilage/1.5m water side/rear setback	nil	unchanged	No
Schedule 3 Parking and Access	2 spaces	2 spaces	unchanged	Yes

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.3.3 Footpath Tree Planting	Yes	Yes
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
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.4 Energy Efficient Appliances and Demand Reduction and Efficient Lighting (non-residential buildings)	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.5.8 Water Sensitive Urban Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	No	Yes
4.4.1 Demolition	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.3 St Patrick's Estate, Manly	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
5.4.2 Threatened Species and Critical Habitat Lands	Yes	Yes

#### Detailed Assessment

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

There are no changes are proposed to the previously approved side setback and therefore is supported on merit.

#### **4.1.9 Swimming Pools, Spas and Water Features**

There are no changes are proposed to the previously approved side setback of the swimming pool and therefore is supported on merit.

#### **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**

##### **Northern Beaches Section 7.12 Contributions Plan 2019**

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 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 approval to Modification Application No. Mod2019/0486 for Modification of Development Consent DA482/2004 for alterations and additions to a dwelling house on land at Lot 16 DP 1189590, 23 Spring Cove Avenue, MANLY, subject to the conditions printed below:

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

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

#### a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
B.01 - Rev. C	24/09/2019	Woodhouse and Danks Architects
B.05, B.07 - Rev. B	08/09/2019	Woodhouse and Danks Architects
North Elevation, West-01 Elevation,	08/09/2019	Woodhouse and Danks Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Bushfire Report	16/11/2018	Bush Fire Planning Services

Heritage Report	28/11/2018	Anne Warr
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b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

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

Landscape Plans		
Drawing No.	Dated	Prepared By
L/01 - Rev G	28/08/2019	A Total Concept

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

**B. Add Condition 1B - Compliance with Other Department, Authority or Service Requirements to read as follows:**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Heritage Council of NSW	Heritage Council of NSW — General Terms Of Approval	20/03/2020

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

**C. Add Condition 81A- Access Spaces – Bandicoot Habitat to read as follows:**

Any new gates or fences are to be designed to include gaps appropriate to maintain bandicoot access through and within the site. Gaps are to be at least 150mm high and 300m wide. This condition does not apply to pool fencing.

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

Reason: To maintain bandicoot access to existing and proposed habitat within and surrounding the site.

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

**Signed**



**Ashley Warnest, Planner**



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



**Steven Findlay, Manager Development Assessments**