

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2024/0624
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Responsible Officer:	Reeve Cocks
Land to be developed (Address):	Lot 7 DP 2610, 21 Moore Street CLONTARF NSW 2093
Proposed Development:	Modification of Development Consent DA2023/1578 granted for Alterations and additions to a dwelling house including a swimming pool
Zoning:	Manly LEP2013 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Applicant:	Rod Jonathon Pindar

Application Lodged:	25/11/2024
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	04/12/2024 to 18/12/2024
Advertised:	Not Advertised
Submissions Received:	2
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The development seeks consent for Modification of Development Consent DA2023/1578 granted for Alterations and additions to a dwelling house including a swimming pool.

Specifically the following works:

External Works

- Deletion of proposed new pool (existing to be retained).
- Deletion of proposed new carport (existing to be retained).
- Deletion of proposed pergola and associated structure over level one (1) balcony.
- Deletion of proposed new roof lining, solar PV and skylights (existing to be retained).
- Deletion of new fencing and retaining walls to the eastern boundary (existing to be retained).
- Deletion of fence and gate to front courtyard.

- Proposed lower ground terrace to be replaced with new timber deck and stair.
- Material change to rear extension from brick to fibre cement VJ board cladding.
- Modification to proposed landscape plan including a lowering of the rear garden RL from 44.70 to RL 44.00.
- Level changes to rear yard

Internal Works

- Internal alterations and additions including changes to window schedules.

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 - 3.4.2 Privacy and Security
 Manly Development Control Plan - 4.1.5 Open Space and Landscaping

SITE DESCRIPTION

Property Description:	Lot 7 DP 2610 , 21 Moore Street CLONTARF NSW 2093
Detailed Site Description:	The subject site consists of one allotment located on the southern side of Moore Street, Clontarf. The site is regular in shape with a frontage of 12.215m and a depth of 40.325m. The site has a surveyed area of 491.5m². The site is located within the R2 Low Density Residential

zone pursuant to Manly LEP 2013 and accommodates a three storey dwelling house with an attached double carport within the front setback area and an in-ground swimming pool within the rear yard.

The site is devoid of any native canopy planting and contains shrubbery within the rear yard southward of the swimming pool. Additionally, screen planting is located along the front boundary adjacent to the paved courtyard.

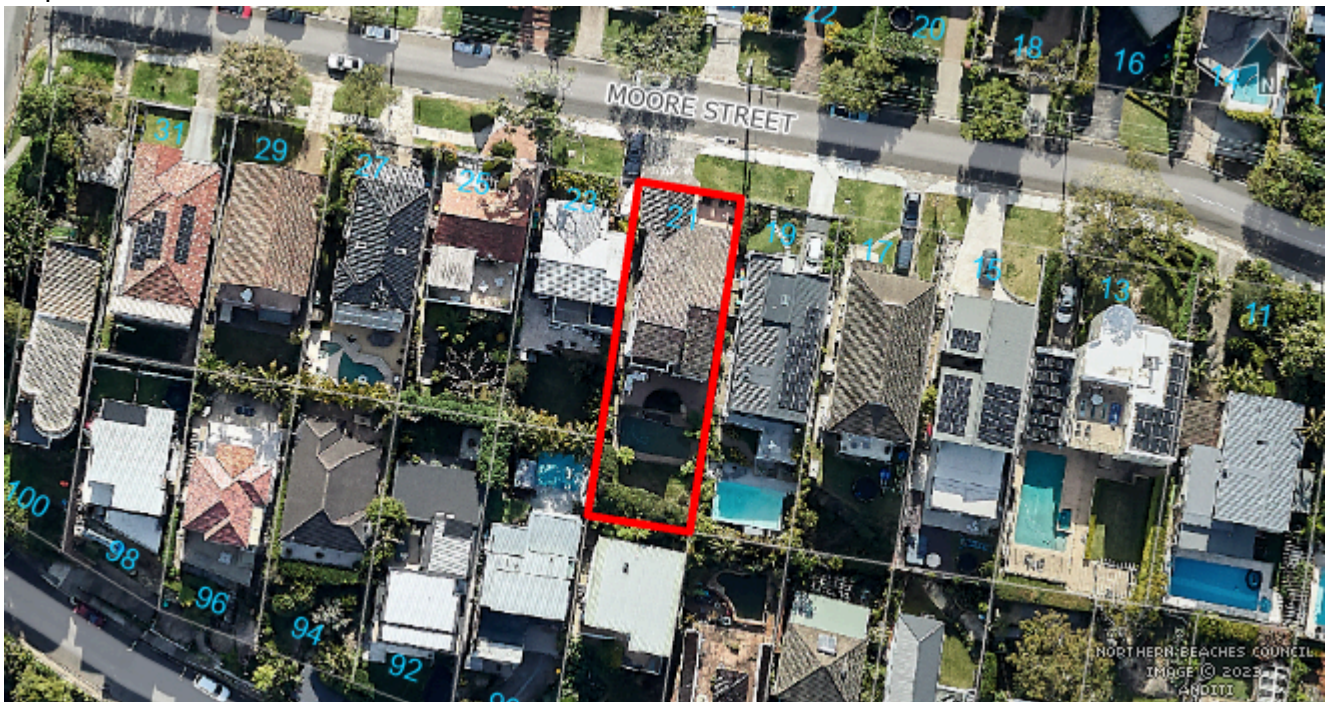
The site experiences a fall of approximately 7.1m that slopes away from the north-eastern front corner towards the south-eastern rear corner.

A sandstone rock shelf runs diagonally across the property between the footprint of the dwelling house and swimming pool. The rear terrace sits on top of the rock shelf and is sited approximately 2.5m above the pool area below.

Description of Surrounding Development

The surrounding built environment is generally characterised by detached low density residential development (i.e. dwelling houses), typically 2-3 storeys in height. Existing development represents both older and modern housing stock.

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 DA2022/0005

Alterations and additions to a dwelling house including a swimming pool determined 13 August 2022.

Development Application DA2023/1578

Alterations and additions to a dwelling house including a swimming pool determined 14 February 2024.

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 DA2023/1578, 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	Yes The modification, as proposed in this application, is considered to be of minimal environmental impact for the following reasons: • The development seeks to reduce the scope of works and retain existing features on-site.

Section 4.55(1A) - Other Modifications	Comments
(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	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 DA2023/1578 for the following reasons: • The development does not seek to change the use of the site. • The development relates directly to the existing dwelling house and approved alterations and additions.
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (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	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.
(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.	See discussion on “Notification & Submissions Received” in this report.

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 'Matters for Consideration'	Comments
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)	<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. <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. <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. <u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 2001: The Demolition of Structures. This matter has been addressed via a condition of consent. <u>Clauses 62</u> and/or 64 of the EP&A Regulation 2021 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. <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. <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.
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	(i) Environmental Impact 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. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.

Section 4.15 'Matters for Consideration'	Comments
	(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.
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 application has been publicly exhibited from 04/12/2024 to 18/12/2024 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 process council is in receipt of 2 submission/s from:

Name:	Address:
Jian Wang Aiping Zhu	90 Cutler Road CLONTARF NSW 2093
Mr Craig Illtyd Thomas	88 Cutler Road CLONTARF NSW 2093

The following issues were raised in the submissions:

- Issues with retaining wall and infill
- Overshadowing
- Stormwater Drainage
- Visual and Acoustic Privacy Concerns

The above issues are addressed as follows:

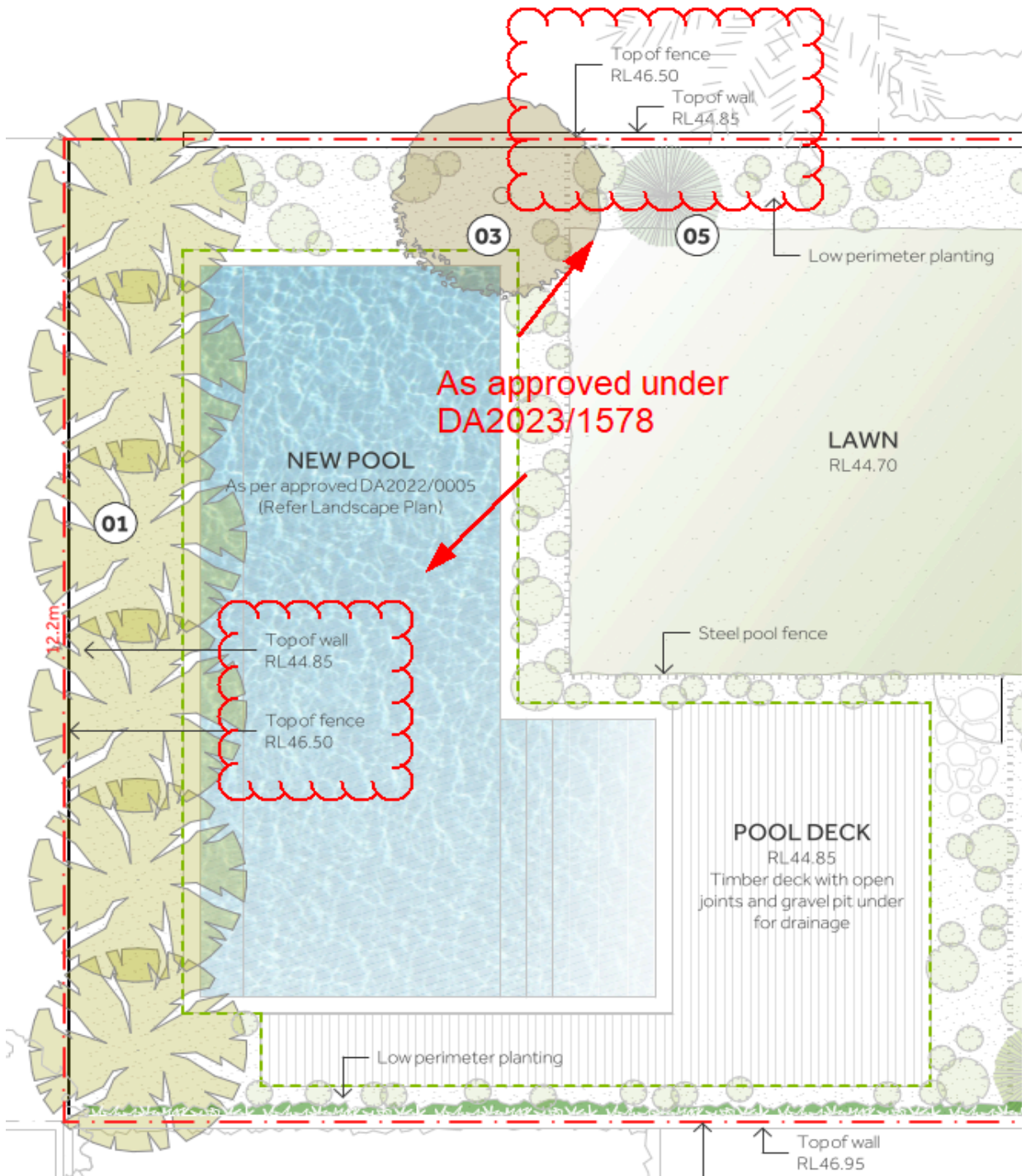
- **Retaining Wall and Infill Works**

The submissions raised concerns regarding the proposed retaining walls and infill works.

Comment:

Submissions raised concerns regarding the proposed retaining wall and rear yard levels. It should be noted that Council has already approved the below levels under DA2023/1578. In assessing this modification application Council must consider any additional impacts greater than what has already been approved. The proposed infilling to an RL of 44.00 to be consistent with the existing pool and lawn level reduces the total infilling height on the rear boundary by 250mm from what was approved under DA2023/1578 (being RL 44.25) which is more consistent with the existing site and immediate surrounds.

The Modification Application was referred to Councils Development Engineers who raised no issues with the development subject to the retention of conditions requested in DA2023/1578. This Application does not seek to remove or alter the conditions requested by Councils Engineers in DA2023/1578.



Concerns relating to No. 90 Cutler Road Clontarf

Under DA2023/1578 Council approved the infilling of the western rear yard to an RL of 44.70. The retaining wall was approved to an RL of 44.85 and the top of the fence was approved to an RL of 46.50. The current modification application seeks to reduce the rear yard, retaining wall and fence height to RL's of 44.00, 44.05 and 45.85 respectively. It is considered that the proposed modifications are of a lesser impact than what has been previously approved by Council and that the development provides greater amenity for the subject and adjoining sites.

Concerns relating to No. 88 Cutler Road Clontarf

The southern rear fence and wall height were approved under DA2023/1578 at an RL of 46.50 and 44.85. The modification application seeks to reduce these heights to an RL of 45.85 and 44.05. It is considered that there is no additional impact from what has been previously approved by Council and that the reduction in height provides for a more desirable outcome.

- **Overshadowing**

The submissions raised concerns that the development will result in the overshadowing of adjoining sites.

Comment:

Council requested amendments to the proposed landscape plan to reduce the impact of overshadowing on adjoining properties to the South. Tree No. 3 has been changed from the originally proposed Dragon Tree reaching a mature height of 5-6m to a Fan Palm which will reach a mature height of 2-3m. The trees located on the rear boundary have been approved under DA2023/1578 and are not proposed to be changed, as such, it is considered that they will not result in any additional overshadowing impacts above what has already been approved.

- **Stormwater Drainage**

The submissions raised concerns regarding the stormwater drainage system on-site.

Comment:

The stormwater drainage system was reviewed by Councils engineers under DA2023/1578 who raised no concerns subject to conditions being applied. Council engineers reviewed the amendments proposed under this modification application and raised no concerns regarding the proposed drainage system.

- **Visual and Acoustic Privacy Concerns**

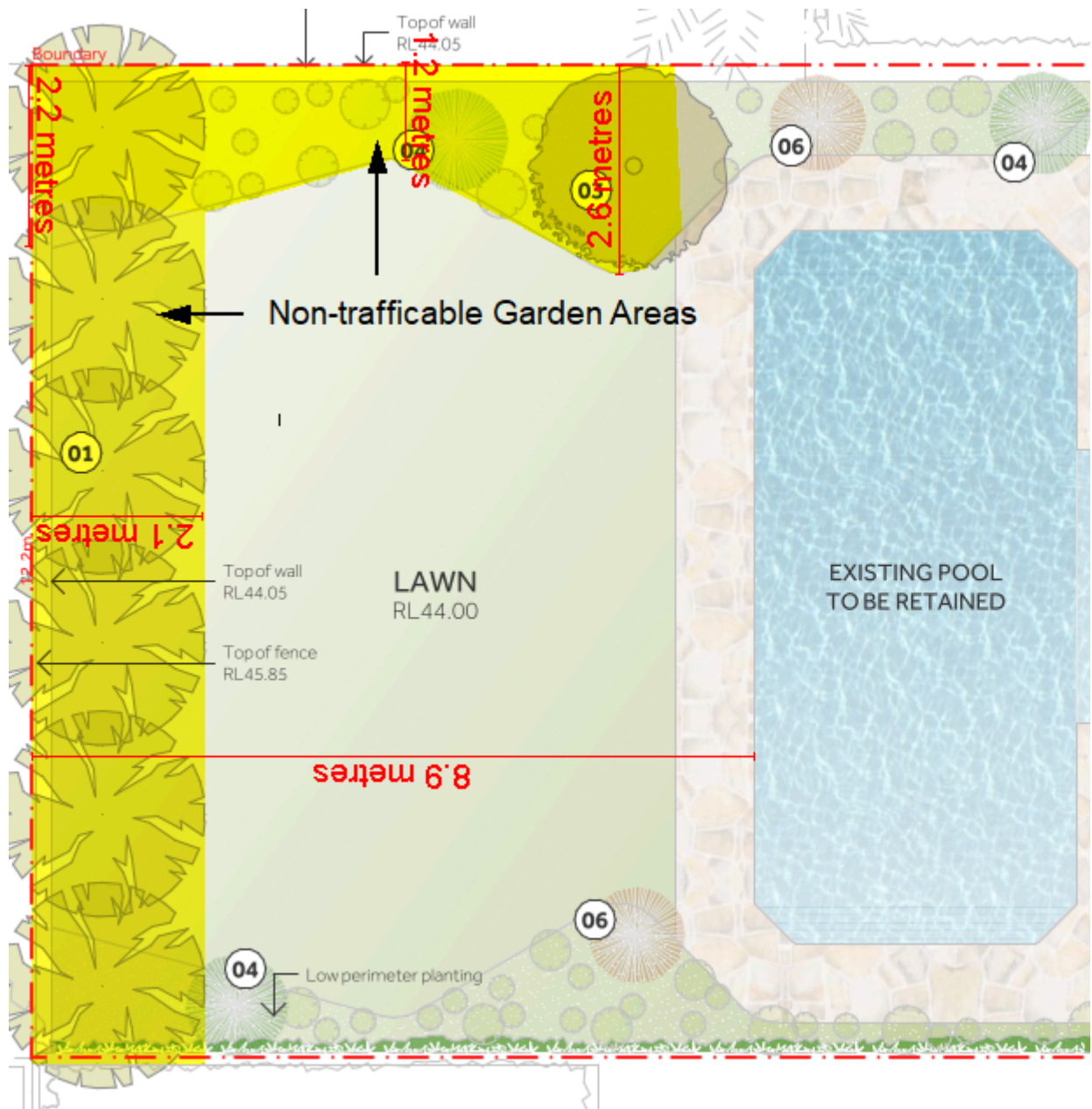
The submissions raised concerns regarding visual and acoustic privacy of adjoining sites.

Comment:

The raised rear garden area will not result in unreasonable visual and acoustic privacy impacts for adjoining sites. The development provides a non-trafficable rear garden area with a depth of approximately 2.1 metres with a further setback of approximately 8.9 metres to the swimming pool water line. The landscaping additionally provides a western side boundary non-trafficable area with a depth varying between 1.2 and 2.6 metres. It is considered that the non-trafficable garden areas provide reasonable setbacks from adjoining sites to mitigate any unreasonable acoustic impacts associated with the use of the rear yard. The proposed decks are significantly setback from the rear boundary (approximately 14.3 metres) and not likely to result in any unreasonable visual privacy impacts on adjoining neighbours. It is also noted that the approved Golden Cane Palms located along the rear boundary will at maturity grow to a height of 3-4 metres, providing added visual privacy (although not relied upon).

In addition to the above, the topography of the site and surrounds makes direct onlooking into adjoining properties living areas and private open spaces difficult. Dwellings on Moore Street and Cutler Road directly adjoining to the south are generally oriented to face south to make

use of the views to the harbour. The steep slope of the sites results in an approximate drop of 3.5 metres from the rear boundary to the adjoining rear property (No. 88 Cutler Road). It should also be noted that No. 88 Cutler Road has an existing approval (Mod2018/0032) for internal and external works including a swimming pool and cabana area resulting in the main recreational area and private open space being located within the front setback of the site.



REFERRALS

Internal Referral Body	Comments
Landscape Officer	The application is for modification to development consent DA2023/1578. The proposed amendments will not change the landscape outcome

Internal Referral Body	Comments
	approved in DA2023/1578, and as such the original conditions remain. No further conditions are imposed. Condition 21 Landscape Completion will be amended as part of this application.
NECC (Development Engineering)	The proposed modifications do not alter the original assessment of the application by Development Engineering. Development Engineering support the proposal with no additional or modified conditions of consent recommended.

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.

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 (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. A1772538 dated 11 November 2024).

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 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 who raised no objections, subject to conditions which have been included in the recommendation of this report.

SEPP (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	7.8m	6.3m	-	Yes
Floor Space Ratio	FSR: 0.4:1	FSR: 0.53:1	-	-	as approved

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes

Clause	Compliance with Requirements
4.5 Calculation of floor space ratio and site area	Yes
5.8 Conversion of fire alarms	Yes
5.21 Flood planning	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	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
6.15 Tourist and visitor accommodation	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 subject site is within the foreshore scenic protection area and is foreshore land. The proposed development:

- does not unreasonably impact upon the visual amenity of the foreshore and surrounds, and does not result in view loss from a public place to the foreshore,
- is not closely visible from the coastline, so does not impact upon its scenic quality,
- is suitable in its site context, and
- does not result in conflict between land-based and water-based coastal activities.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 491.5m ²	Requirement	Approved	Proposed	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwelling per 950m ²	1 dwelling on 491.5m ² allotment (was existing and unchanged)	-	as existing

	Dwelling Size: minimum 134sqm required (based off 5 bedrooms and 5 bathrooms)	262m ²	-	as approved
4.1.2.1 Wall Height	East: 7.7m (based on gradient 1:5)	6.1m	-	as approved
	West: 7.7m (based on gradient 1:5)	7.8m	-	as approved
4.1.2.2 Number of Storeys	2	3	-	as approved
4.1.2.3 Roof Height	Parapet Height: 0.6m	0.4m	-	as approved
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	as existing	-	as existing
4.1.4.2 Side Setbacks and Secondary Street Frontages	East: 2.77m (1/3 of wall height)	1.35m (new additions lower floors) - 5.9m (new additions upper floor)	-	as approved
	West: 2.6m (1/3 of wall height)	1.65m (new additions)	-	as approved
	Windows: 3m	10x new windows within 3m of side boundaries	alteration to windows does not change approved setback	as approved
4.1.4.4 Rear Setbacks	8m	13m	-	as approved
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS4	Open space 60% of site area	55% (268m ²)	-	as approved
	Open space above ground 25% of total open space	9.41% (25.5sqm) - area of ground floor elevated deck that has a 3m x 3m trafficable area	9.8% (26.32m ²) - area of ground floor elevated deck.	Yes
4.1.5.2 Landscaped Area	Landscaped area 40% of open space	49% (132m ²) of proposed open space	50.3% (135m ²) of proposed open space	Yes
	2 native trees	1 trees	-	as approved
4.1.5.3 Private Open Space	18m ² per dwelling	>18m ²	-	as approved
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	1.6m above existing ground level and 0.6m above finished ground following backfill	existing pool to be retained (ground level)	Yes

	Curtilage: 1m setback from side/rear boundaries	pool decking setback 0.4m from eastern side boundary	existing pool setback 0.45m from eastern side boundary	as existing
	Water line: 1.5m setback from side/rear boundaries	1.5m	1.35m (existing)	as existing
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces	-	as approved

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 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
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	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

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	Yes	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	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

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 development generally results in a more desirable outcome from what is approved by increasing the rear setback to the swimming pool (retaining in existing position) and providing for additional landscaped screening. The development proposes changes to windows W-LG-05, W-LG-07, W-LG-08, W-G-14, and W-G-15. Windows W-LG-05, W-LG-07, and W-LG-08 are generally located at ground level and do not result in privacy impacts from adjoining properties to the east or west. Windows W-G-14 and W-G-15 service a bathroom and walk-in-robe reducing the visual privacy impacts on adjoining sites to the east.

It is additionally noted that the development seeks to delete the approved pergola structure and privacy screening over the first storey balcony. The balcony has a western side setback of 2 metres, an eastern side setback of 6.2 metres and a rear setback of 18.1 metres. The balcony is compliant with the minimum setback controls and is consistent with balcony developments within the immediate locality. Due to the topography of the site and surrounds views from the balcony into adjoining dwellings will be limited and will achieve a reasonable view sharing outcome.

It is considered that the development is consistent with the objective.

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 development will not result in an unreasonable impact on access to light and air. The development reasonably balances outlook and views from habitable rooms and private open spaces.

It is considered that the development is consistent with the objective.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The development does not impact neighbourhood security.

It is considered that the development is consistent with the objective.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of 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

Description of non-compliance

The development proposes no changes to the approved total open space area and proposes a minor increase in landscaped area. The development is considered reasonable in this circumstance. Please refer to DA2023/1578 for a detailed merit assessment.

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 2024

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. Mod2024/0624 for Modification of Development Consent DA2023/1578 granted for Alterations and additions to a dwelling house including a swimming pool on land at Lot 7 DP 2610,21 Moore Street, CLONTARF, subject to the conditions printed below:

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
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PAN - 485515 Council Mod2024/0624	The date of this notice of determination	Modification of Development Consent DA223/1578 granted for Alterations and additions to a dwelling house including a swimming pool. Add Condition No.1A - Modification of Consent - Approved Plans and supporting documentation.
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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
A-08	B	Site & Roof Level Plan	Natalie Scilerras	15 October 2023
A-09	B	Lower Level Plan	Natalie Scilerras	15 October 2023
A-10	B	Ground Level Plan	Natalie Scilerras	15 October 2023
A-11	B	Level 1 Plan	Natalie Scilerras	15 October 2023
A-12	B	East Elevation	Natalie Scilerras	15 October 2023
A-13	B	West Elevation	Natalie Scilerras	15 October 2023
A-14	B	North & South Elevation	Natalie Scilerras	15 October 2023
A-15	B	Street Elevation	Natalie Scilerras	15 October 2023
A-16	B	Section AA	Natalie Scilerras	15 October 2023
A-17	B	Section BB	Natalie Scilerras	15 October 2023
DA-18	C	Landscape Plan	Natalie Scilerras	16 January 2024
A-24	B	Schedule of Materials, Colours & Finishes	Natalie Scilerras	15 October 2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Basix Certificate	A1772538	Natalie Pindar	11 November 2024
Geotechnical Report	-	White Geotechnical Group	19 November 2024

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



Reeve Cocks, Planner

The application is determined on 12/02/2025, under the delegated authority of:



Rodney Piggott, Manager Development Assessments