

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2025/0126
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Responsible Officer:	Michael French
Land to be developed (Address):	Lot 2 DP 900589, 30 Pacific Street MANLY NSW 2095
Proposed Development:	Modification of Development Consent DA2023/1367 granted for Alterations and additions to a dwelling house and associated works
Zoning:	Manly LEP2013 - Land zoned R3 Medium Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Applicant:	Simon Geoffrey Vaughan

Application Lodged:	26/03/2025
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Refer to Development Application
Notified:	03/04/2025 to 17/04/2025
Advertised:	Not Advertised
Submissions Received:	1
Clause 4.6 Variation:	Nil
Recommendation:	Approval

PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks to modify DA2023/1367 in the following ways:

Ground Floor

- Stairs relocated
- Minor internal layout adjustments resulting from stair relocation
- New bay windows added to the eastern elevation
- Modified garage door design

First Floor

- Increased front setback and reduced building envelope at the south-western corner
- Enlarged front balcony
- Reconfigured windows on both north-western and south-eastern elevations
- Expanded building envelope along a section of the north-western façade

Roof/Attic

- Rooftop balcony reduced in size with new balustrade proposed
- Rear portion of the roof reduced
- Attic layout reconfigured

External

- Swimming pool and pool terrace redesigned
- Additional landscaping introduced along the north-western boundary
- New standing seam awning roof installed over the entry
- New garage door installed

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 - 4.4 Floor space ratio
 Manly Local Environmental Plan 2013 - 6.9 Foreshore scenic protection area
 Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)
 Manly Development Control Plan - 4.1.3 Floor Space Ratio (FSR)
 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 - 4.1.9 Swimming Pools, Spas and Water Features

SITE DESCRIPTION

Property Description:	Lot 2 DP 900589 , 30 Pacific Street MANLY NSW 2095
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Pacific Street.</p> <p>The site is regular in shape with a frontage of 7.01m along Pacific Street and a depth of 30.685m. The site has a surveyed area of 215.1m².</p> <p>The site is located within the R3 Medium Density Residential zone pursuant to the Manly Local Environmental Plan 2013 and accommodates a single-storey dwelling with a studio in the rear yard.</p> <p>The site is relatively flat throughout.</p> <p>There are no details of any threatened species on site.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by a mix of dwellings within an R3 Medium Density Residential zone.</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:

DA2023/1367 dated 26 April 2024: Alterations and additions to a dwelling house and associated works.

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 DA2023/1367, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and

Assessment Act, 1979, are:

Section 4.55 (2) - 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 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 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 DA2023/1367 for the following reasons:</p> <ul style="list-style-type: none"> • The changes do not significantly alter the existing approved development. • There are no unreasonable adverse amenity impacts on neighbouring properties. • The proposal remains consistent with the existing character of the surrounding area.
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	<p>Development Application DA2023/1367 did not require concurrence from the relevant Minister, public authority or approval body.</p> <ul style="list-style-type: none"> • The building footprint and overall design remain largely unchanged. • The proposed modifications do not introduce any new uses or significant alterations. • The scale, bulk, and relationship to neighbouring properties are consistent with the original approval.
<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</p>	<p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.</p>

Section 4.55 (2) - Other Modifications	Comments
of a development consent, and	
(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 (2) the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

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

Section 4.15 'Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 requires the consent authority to consider AS 2601 - 2001: The Demolition of Structures. This matter has been addressed via a condition of consent.</p>

Section 4.15 'Matters for Consideration'	Comments
	<p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(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.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 03/04/2025 to 17/04/2025 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 1 submission/s from:

Name:	Address:
Ms Wendy Patricia Blume	32 Pacific Street MANLY NSW 2095

The following issues were raised in the submissions:

- *Clause 3.4.2 Privacy and Security*
- *Clause 4.1.4 Setbacks (front, side and rear) and Building Separation*

The above issues are addressed as follows:

- **Clause 3.4.2 Privacy and Security**

The submissions raised concerns regarding the height of the privacy screen on the deck adjoining the rear of the dwelling being dropped from 1.8m to 1.6m.

Comment:

It is considered that the currently proposed 1.6m high privacy screening on the first-floor deck is sufficient to prevent unreasonable overlooking or views into adjoining properties. While slightly lower than the original approval (1.8m), a 1.6m screen remains consistent with accepted standards for privacy protection in residential developments. Given the scale and context of the development, the proposed screening is considered an appropriate and balanced response that maintains a reasonable level of residential amenity. As such, the proposal is acceptable in relation to privacy impacts.

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

The submissions raised concerns that the third-storey will be situated within the front setback area, particularly given that the design has been changed from an attic space and deck hidden in the roofline to an open rooftop entertaining area. Further concern related to this address both acoustic and visual privacy from the terrace.

Comment:

The proposal has been assessed against *Clause 4.1.4 Setbacks (front, side and rear) and Building Separation* and is considered supportable in this instance.

The third-storey terrace is street-facing and has been modulated and articulated to minimise privacy impacts. Its design appropriately addresses both acoustic and visual privacy, and the resulting impact is considered acceptable and reasonable within an R3 Medium Density Residential zone.

The proposal is supported in this regard.

REFERRALS

Internal Referral Body	Comments	
Landscape Officer	<p>The application is for modification to development consent DA2023/1367.</p> <p>The proposed amendments will not change the landscape outcome approved in DA2023/1367, and as such the original conditions remain. No further conditions are imposed.</p>	
NECC (Development Engineering)	No objections to approval and no changes to Conditions of Consent DA2023/1367.	
Strategic and Place Planning (Heritage Officer)	HERITAGE COMMENTS	
	Discussion of reason for referral	
	<p>The proposal has been referred to Heritage as the subject site is located in close proximity to two heritage items and in the vicinity of the Pittwater Road Conservation Area:</p> <p>Item I2 - All stone kerbs - Manly municipal area</p> <p>Item I192 - Street trees - Pacific Street (from Collingwood Street to Malvern Avenue)</p>	
	Details of heritage items affected	
	<p>C1 - Pittwater Road Conservation Area</p> <p><u>Statement of significance</u></p> <p>The street pattern is distinctive and underpins the urban character of the area. The streets remain unaltered in their alignment, although the names of Malvern, Pine and North Steyne are now names for what were Whistler, Middle Harbour and East Steyne respectively.</p> <p>Item I2 - All stone kerbs</p> <p><u>Statement of significance</u></p> <p>Stone kerbs are heritage listed.</p> <p><u>Physical description</u></p> <p>Sandstone kerbing to streets relating to paving and kerbing of streets in the nineteenth century.</p> <p>Mostly located within Manly Village area and adjacent lower slopes of Eastern Hill and Fairlight.</p> <p>Item I192 - Street trees</p> <p><u>Statement of significance</u></p> <p>Listed for its aesthetic importance to the streetscape. Part of early Municipal street planting late 19th century.</p> <p><u>Physical description</u></p> <p>Remnant Norfolk Island pines planted in carriageway and one Brush Box.</p>	
	Other relevant heritage listings	
	<table> <tr> <td>SEPP (Biodiversity and Conservation)</td><td>No</td></tr> </table>	SEPP (Biodiversity and Conservation)
SEPP (Biodiversity and Conservation)	No	

Internal Referral Body	Comments
	2021
	Australian Heritage Register No
	NSW State Heritage Register No
	National Trust of Aust (NSW) Register No
	RAIA Register of 20th Century Buildings of Significance No
	Other No
	<p>Consideration of Application</p> <p>The proposal seeks consent to modify the approved DA2023/1367 involving changes to the approved internal layout, a reduction to the first floor balcony setback at the front, changes to the approved swimming pool at the rear, and changing the garage door from a glazed door to solid door. The extended first floor balcony along with its overhang brings the building beyond the front building alignment and this is required to be recessed to the approved overhang line. Given the proposal is mainly confined within the approved envelope it is considered that the additional impact upon the significance of the heritage items and the existing streetscape is manageable.</p> <p>Therefore, no objections are raised on heritage grounds subject to one additional condition.</p> <p><u>Consider against the provisions of CL5.10 of Manly LEP 2013.</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? Yes Has a Heritage Impact Statement been provided? Yes</p>
Traffic Engineer	the proposed modifications do not result in any additional traffic implications. Existing traffic engineering conditions of consent to remain active

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.A1788409 dated 21 March 2025).

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.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

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

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed

development is likely to cause an adverse impact on the following:

- a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
- b) coastal environmental values and natural coastal processes,
- c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
- d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
- e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
- f) Aboriginal cultural heritage, practices and places,
- g) the use of the surf zone.

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

Comment:

It is considered that works are unlikely to cause an adverse impact on land within the Coastal environment area. The proposed works adhere to the above criteria.

Division 5 General

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

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

Comment:

The proposed works will not unreasonably increase the risk of coastal hazards on the site or any adjoining or surrounding land.

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

Chapter 4 – Remediation of Land

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

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	11m	9.8m	9.8m	N/A	Yes
Floor Space Ratio	FSR: 0.75:1	FSR: 0.82:1 (177.3m ²)	FSR: 0.82:1 (177.3m ²)	N/A	No

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
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes

Detailed Assessment

4.4 Floor space ratio

The numerical non-compliance as approved by the parent application remains as existing. No further assessment is required in this regard.

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: 215.1m²	Requirement	Approved	Proposed	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwellings	1	1	Yes
	Dwelling Size: 90sqm	> 90sqm	> 90sqm	Yes
4.1.2.1 Wall Height	NW: 9.1m (based on gradient 1:60)	complies	complies	Yes
	SE: 9.1m (based on gradient 1:60)	complies	complies	Yes
4.1.2.2 Number of Storeys	3	3	3	Yes
4.1.2.3 Roof Height	Height: 2.5m	2.2m	complies	Yes
	Parapet Height: 0.6m	complies	complies	Yes
	Pitch: maximum 35 degrees	approx. 40 degrees	approx. 40 degrees	No
4.1.4.1 Street Front Setbacks	Prevailing building line	1.8m (Garage) 1.9m (First Floor Balcony) 2m (Dwelling entry)	1.8m (Garage) 2m (Dwelling entry)	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	2.3m (based on wall height)(NW)	0.3m (ground floor) 0.4m (first floor)	0.3m (ground floor) 0.4m (first floor)	No
	2.3m (based on wall height)(SE)	1m (ground floor) 1.1m (first floor)	1m (ground floor) 1m (first floor)	No
	Windows: 3m	1m	1m	No
4.1.4.4 Rear Setbacks	8m	0.3m (swimming pool coping) 5m (ground floor alfresco) 5.5m (first floor terrace)	0.4m (swimming pool coping) 5m (ground floor alfresco) 5.5m (first floor terrace)	No

4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS2	Open space 50% of site area	57.88% (124.5m ²)	56.9% (122.4m ²)	Yes
	Open space above ground 25% of total open space	complies	complies	
4.1.5.2 Landscaped Area	Landscaped area 30% of open space	31.81% (39.6m ²)	17.2% (21.1m ²)	No
4.1.5.3 Private Open Space	18sqm per dwelling	>18sqm	>18sqm	Yes
4.1.9 Swimming Pools, Spas and Water Features	1m height above ground	nil	nil	Yes
	1m curtilage/1.5m water side/rear setback	0.3m/0.5m/0.3m	nil/0.7m/0.4m	No
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces	2 spaces	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
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	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
3.10 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

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	No	Yes
4.1.3 Floor Space Ratio (FSR)	No	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)	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.9 Swimming Pools, Spas and Water Features	No	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

4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)

The proposal maintains the existing non-compliance with *Clause 4.1.2.3 Roof Height* and therefore the original assessment remains pertinent. No further assessment is required in this instance.

4.1.3 Floor Space Ratio (FSR)

The proposal maintains the existing numerical non-compliance with the required Floor space ratio. The original assessment remains pertinent. No further assessment is required in this instance.

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

The proposal maintains the existing non-compliances with the side and rear setbacks. The original assessment remains pertinent. No further assessment is required in this instance.

4.1.5 Open Space and Landscaping

Description of non-compliance

Clause 4.1.5.1 Minimum Residential Total Open Space Requirements requires the following of sites within the OS2 zone:

- *A minimum Landscaped Area equating to 30% of the proposed Total Open Space.*

The development proposes a Landscaped Area calculation of 17.2% (21.1m²).

It should be noted that despite the shortfall in landscaped area, the proposal continues to deliver a well-considered and usable open space arrangement. A suitably located and functional landscaped

area is still provided, contributing to the overall visual quality and amenity of the site. Nevertheless, as the proposal does not wholly comply with the requirements of the subject clause, assessment against the objectives of the clause has been outlined below.

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 retain and augment important landscape features and vegetation including remnant populations of native flora and fauna.

Comment:

The proposal will adequately retain important landscape features and vegetation.

Objective 2) To maximise soft landscaped areas and open space at ground level, encourage appropriate tree planting and the maintenance of existing vegetation and bushland.

Comment:

The site maintains adequate opportunity for the planting of trees and maintenance of existing vegetation.

Objective 3) To maintain and enhance the amenity (including sunlight, privacy and views) of the site, the streetscape and the surrounding area.

Comment:

The proposed development is not considered to impact view sharing, not interrupting any significant view corridors. Sunlight access, visual and acoustic privacy will be maintained by the proposal.

Objective 4) To maximise water infiltration on-site with porous landscaped areas and surfaces and minimise stormwater runoff.

Comment:

It is considered that the proposal will maintain the necessary permeable surfaces for water infiltration to the water table.

Objective 5) To minimise the spread of weeds and the degradation of private and public open space.

Comment:

The proposal is not expected to assist in the spread of weeds and the degradation of private and public open space.

Objective 6) To maximise wildlife habitat and the potential for wildlife corridors.

Comment:

The proposal is not expected to adversely impact wildlife habitat or the potential for wildlife corridors.

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.

4.1.9 Swimming Pools, Spas and Water Features

Description of non-compliance

Clause 4.1.9.2 *Location and Setbacks* requires the following:

- c) *The setback of the outer edge of the pool/spa concourse from the side and rear boundaries must have the water line being at least 1.5m from the boundary.*

The proposed development seeks a setback of nil from the north-western side boundary, 0.4 metres from the rear boundary, and 0.7 metres of the water line from the nearest boundary.

In response to concerns regarding the extent of variation to the above control, the following condition of consent has been included:

Amendments to the approved plans

The following amendments are to be made to the approved plans.

- *The pool paving is to be set back a minimum of 0.5m from the north-western side boundary line, and 1m from the south-eastern side boundary line.*

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

Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

While the amended proposal does not fully comply with the numerical requirements of the clause, the revised setbacks represent an improvement that better responds to the intent of the control. The proposal, as modified, is now considered to satisfy the objectives of the subject clause. Given these considerations, the variation is considered minor, and the proposal, as amended, is considered supportable as detailed below:

Merit consideration

Objective 1) To be located and designed to maintain the privacy (visually and aurally) of neighbouring properties and to minimise the impact of filter noise on neighbouring properties;

Comment:

The pool is considered to maintain adequate visual and acoustic privacy from the streetscape and surrounding sites.

Objective 2) To be appropriately located so as not to adversely impact on the streetscape or the established character of the locality;

Comment:

The development is located such that the established character of the streetscape and the locality is maintained. The proposal does not detract from the amenity or character of the neighbourhood.

Objective 3) To integrate landscaping;

Comment:

The location and size of the pool allow sufficient space for additional landscaping on site. The added condition of consent supports better integration of vegetation within the rear yard and around the pool area, enhancing the overall landscape outcome.

Objective 4) To become an emergency water resource in bush fire prone areas.

Comment:

The subject site is not located within bushfire prone land.

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.

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. Mod2025/0126 for Modification of Development Consent DA2023/1367 granted for Alterations and additions to a dwelling house and associated works on land at Lot 2 DP 900589,30 Pacific Street, MANLY, subject to the conditions printed below:

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
Mod2025/0126	The date of this notice of determination	Modification of Development Consent DA2023/1367 granted for Alterations and additions to a dwelling house and associated works

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
DA04	A	SITE, ROOF, SEDIMENT & EROSION CONTROL PLANS	Vaughan Architects	6 March 2025

DA05	A	EXISTING GROUND FL & DEMOLITION PLAN	Vaughan Architects	6 March 2025
DA06	A	PROPOSED GROUND FL PLAN	Vaughan Architects	6 March 2025
DA07	A	PROPOSED FIRST FLOOR PLAN	Vaughan Architects	6 March 2025
DA08	A	ATTIC PLAN	Vaughan Architects	6 March 2025
DA09	A	SOUTH-WEST, NORTH-EAST & STREETFRONT ELEVATIONS	Vaughan Architects	6 March 2025
DA10	A	NORTH-WEST & SOUTH-EAST ELEVATIONS	Vaughan Architects	6 March 2025
DA11	A	LONGITUDINAL SECTION	Vaughan Architects	6 March 2025
DA12	A	CROSS SECTIONS	Vaughan Architects	6 March 2025
DA13	A	DRIVEWAY DETAIL PLAN	Vaughan Architects	6 March 2025
DA14	A	SWIMMING POOL DETAILS	Vaughan Architects	6 March 2025
DA19	A	EXTERNAL FINISHES SCHEDULE	Vaughan Architects	6 March 2025

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BASIX Certificate	A1788409	The Trustee for The Starboard Trust	21 March 2025
Geotechnical Report	-	Ascent Geo	18 February 2025
Waste Management Plan	-	-	-

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.

B. Add Condition 17A First floor balcony overhang to read as follows:

First floor balcony overhang should be set back from the front boundary, to be in line with the approved balcony. Details, demonstrating compliance with this condition, are to be submitted to Council for approval prior to the issue of a Construction Certificate.

Reason: To minimise the adverse impact upon the streetscape.

C. Add Condition 17B Amendments to the approved plans to read as follows:

The following amendments are to be made to the approved plans.

- *The pool paving is to be set back a minimum of 0.5m from the north-western side boundary line, and a minimum of 1m from the south-eastern side boundary line.*

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

Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

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

Signed



Michael French, Planner

The application is determined on 25/06/2025, under the delegated authority of:



Rodney Piggott, Manager Development Assessments