

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2017/0340
Responsible Officer:	Thomas Prosser
Land to be developed (Address):	Lot 1 DP 809933, 0 Wharves And Jetties MANLY NSW 2095 Lot 1 DP 1170245, 0 Wharves And Jetties MANLY NSW 2095 Lot 2 DP 1170245, 0 Wharves And Jetties MANLY NSW 2095 Lot 3 DP 1170245, 0 Wharves And Jetties MANLY NSW 2095
Proposed Development:	Modification of Development Consent DA0142/2011 granted for construction of a first floor addition to the existing Manly Wharf structure including restaurant tenancies and changes to the ground floor including new retail tenancies
Zoning:	W2 - Environment Protection (SREP)
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	Yes
Owner:	TMG Developments Pty Ltd
Applicant:	Reward Pty Ltd

Application lodged:	21/12/2017
Integrated Development:	Yes
Designated Development:	No
State Reporting Category:	Commercial/Retail/Office
Notified:	31/01/2018 to 10/04/2018
Advertised:	10/02/2018
Submissions Received:	5
Recommendation:	Approval

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

Environmental Planning and Assessment Act 1979 - Section 4.56 - Environmental Planning and Assessment Act 1979 - Section 4.56 - with S79C Assessment
Manly Local Environmental Plan 2013 - Note

SITE DESCRIPTION

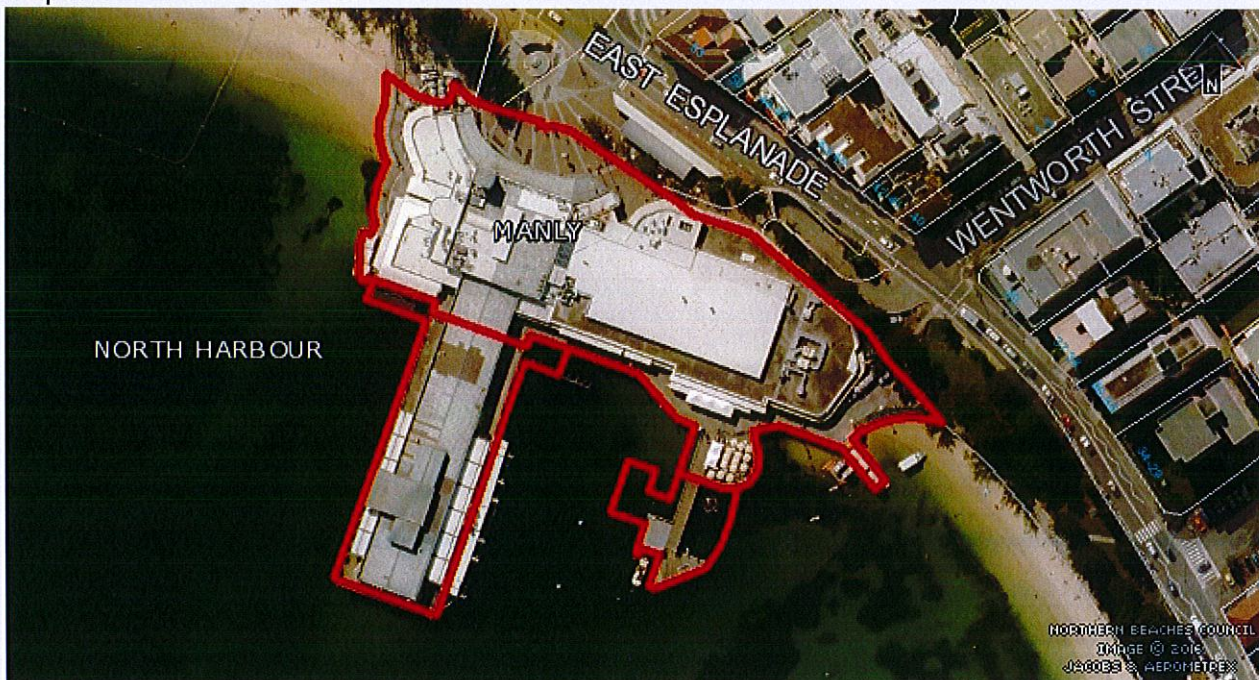
Property Description:	<p>Lot 1 DP 809933 , 0 Wharves And Jetties MANLY NSW 2095 Lot 1 DP 1170245 , 0 Wharves And Jetties MANLY NSW 2095 Lot 2 DP 1170245 , 0 Wharves And Jetties MANLY NSW 2095 Lot 3 DP 1170245 , 0 Wharves And Jetties MANLY NSW 2095</p>
Detailed Site Description:	<p>The subject site is legally described as Lot 1 in Deposited Plan 809933 and is commonly known as Manly Wharf. The site is located within Manly Cove and is located at the junction of East Esplanade and West Esplanade, Manly.</p> <p>The area of the site where the proposed development is located is within the boundaries defined as the Manly Wharf Lease Line and the line of the Mean High Water Mark. This site has an estimated area of 13,405m².</p> <p>The site is oriented east west with the northern and southern boundaries fronting the western and eastern promenades, and Manly Cove respectively.</p> <p>The development site is limited to the eastern wing of Manly Wharf. The eastern wing currently accommodates a single retail level and first floor accommodating centre management offices. The existing eastern wing has frontage to Manly Cove and a curved entry at the north-eastern corner for the Manly Wharf Hotel.</p> <p>A single basement level sits below the Wharf deck level and is accessed from East Esplanade This level includes vehicle parking and loading facilities.</p> <p>The site has multiple pedestrian accesses from the street as well as from the Ferry terminal.</p> <p>The Wharf is surrounded by sheltered marine environment. The surrounding waters and nearby harbour foreshore is known to provide habitat for Little Penguins and posses other marine ecology including seagrass beds.</p> <p>Opposite the site to the west is Manly Corso. The Corso is a wide open promenade and public open space between Manly Beach and Many Wharf and provides street furniture, public art and a focal point for the Manly Town Centre. Commercial uses including shops, offices, restaurants, cafes, licensed premises and services and amenities dominate the frontages of The Corso. The scale of development along The Corso is varied between two (2) to four (4) storeys.</p> <p>The uses opposite the site along East Esplanade are dominated by mixed use developments mainly consisting of ground floor commercial uses such as shops, offices,</p>

restaurants and cafes with residential above. Some of the building along East Esplanade consist primarily of multi-storey commercial developments. The scale of development along East Esplanade is predominately between three (3) to six (6) storeys.

The uses opposite the site along West Esplanade are dominated by mixed use developments mainly consisting of ground floor commercial uses such as shops, offices, restaurants and cafes with residential above. The scale of development along East Esplanade is predominately between three (3) to eight (8) storeys.

 **Make direct amendment to Site description**

Map:



SITE HISTORY

The subject site has had numerous approvals, particularly in relation to uses on site. The following are approvals related to the proposed modification with first

- An appeal was upheld and a consent was granted on 7 November 2013 by the Land and Environment Court for "Construction for a first floor addition to the existing Manly Wharf structure including two (2) restaurant tenancies and changes to the ground floor including two (2) new retail tenancies"
- Application 10.2011.142.2 for Section 96 to modify approved Construction of a first floor addition to the existing Manly Wharf structure including two (2) restaurant tenancies and changes to the ground floor including two (2) new retail tenancies - involving modifications to the approved first floor addition, addition of new lifts, new stairs, increase to floor area of two (2) restaurant tenancies, addition of outdoor seating areas and modification to conditions 1 in relation to the architectural plans, 3 in relation to provision of outdoor seating, 90 in relation to outdoor eating area and deletion of condition 86 in relation to addition doors - Manly Wharf - Part 2 was determined by MIAP on 15 October 2015.

 **Make direct amendment to Site History**

PROPOSED DEVELOPMENT IN DETAIL

The proposal is for changes to the lift overrun including an extension to RL11.900 from the court approved RL11.400, a new metal roof for the overrun, with colour to match existing and profiled flashing on lift overrun walls.

It is noted that there are other works referred to as "new" on the plans but this modification only refers to the lift overrun as confirmed by the Statement, "Statement of heritage impact" with Job No: 87.532, which is highlighted with the red bubble on the proposed plans. For clarity, a condition has been imposed to ensure that these are the only works added to the consent as a result of this modification.

 **Make direct amendment to Detailed Description of Development**

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

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:
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 DA142/2011, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.56 of the Environmental Planning and Assessment Act, 1979, are:

Section 96AA - Other Modifications	Comments
(1) 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	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 DA142/2011.

Section 96AA - Other Modifications	Comments
<p>(b) 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>
<p>(c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and</p>	<p>Written notices of this application have been sent to the last address known to Council of the objectors or other persons who made a submission in respect of DA142/2011.</p>
<p>(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.</p>	<p>See discussion on "Notification & Submissions Received" in this report.</p>

Section 79C Assessment

In accordance with Section 96(3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 the consent authority must take into consideration such of the matters referred to in section 79C(1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "Environmental Planning Instruments" in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 79C (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&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&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No Additional information was requested.</p> <p><u>Clause 98</u> of the EP&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 79C (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) The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. (ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 79C (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Public Exhibition" in this report.
Section 79C (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

Make direct amendment to *Environmental Planning and Assessment Act 1979 - Section 4.56*

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

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 5 submission/s from:

Name:	Address:
Mrs Sybille Katherine Lechner	11 / 10 Hilltop Crescent FAIRLIGHT NSW 2094
Mr Adam Smith	404 / 54 West Esplanade MANLY NSW 2095
Ms Anita Joy Langborne	9 / 87 West Esplanade MANLY NSW 2095
Ms Lynne Catherine Wellham	PO Box 20 Croydon NSW 2132
Ms Suzanne Gwendoline Wellham	94A Carrington Road Wahroonga NSW 2076

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

- Objection to addition of first floor, another restaurant and over-development, scale is out of character, unwanted precedent
- Parking
- Amenity impact - View loss from restaurants built at first floor, noise and smoke.
- Impact on little penguins
- Objection to change of facade

The matters raised within the submissions are addressed as follows:



- Objection to addition of first floor, another restaurant and over-development, scale is out of character, unwanted precedent
Comment:
Approval for the first floor extension and restaurant was granted by the Land and Environment Court. This application is to modify that consent with proposed works to the lift only.
- Parking
Comment:
This application is to modify that consent with proposed works to the lift only. As such, this would result in no unreasonable impact on parking.
- Amenity impact - View loss from restaurants built at first floor, noise and smoke
Comment:
This application is to modify that consent with proposed works to the lift only. As such, this would not result in any unreasonable amenity impact. In locations where views are available over the court approved restaurant, substantial views will be retained either side of the lift overrun. This is shown by the 3.4 metre width of the lift as compared to the width of the first floor extension which is up to 47 metres.
- Impact on little penguins
Comment:
This application is to modify that consent with proposed works to the lift only. As such, this would result in no unreasonable impact on little penguins.
- Objection to change of facade
Comment:
This application is to modify that consent with proposed works to the lift only.


 **Make direct amendment to Submissions**





MEDIATION


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

REFERRALS

Internal Referral Body	Comments		
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant to the Building Certificate Safety Department. There are no objections to approval of the development subject to inclusion conditions of approval and consideration of the notes below.</p> <p><i>Note: The proposed development may not comply with some requirements of the BCA and the Standards. Issues such as this however may be determined at Construction Certificate Stage.</i></p> <p> Make direct amendment to Building Assessment - Fire and Disability upgrades</p>		
NECC (Coast and Catchments)	<p>Approved with conditions. referral has been complete in Trim</p> <p> Make direct amendment to NECC (Coast and Catchments)</p>		
Strategic & Place Planning (Heritage Officer)	HERITAGE COMMENTS		
	Discussion of reason for referral		
	Works are within curtilage of State Heritage Register listed item.		
	Details of heritage items affected		
	Manly Wharf.		
	Other relevant heritage listings		
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	NO	
	Australian Heritage Register	NO	
	NSW State Heritage Register	YES	
	National Trust of Aust (NSW) Register	N/A	
	RAIA Register of 20th Century Buildings of Significance	N/A	
	Other	N/A	
	Consideration of Application		
	Further to a review of available documents and a site visit		
	The application is an Integrated DA, thus a "prescribed DA" under the NSW Heritage Act 197 approvals under the two Acts.		
Note that in case of any inconsistency in assessment under EPA Act (Local council) and the L (NSW OEH), in heritage matters the assessment under the Heritage Act will prevail to the extent of any inconsistency (refer to NSW Heritage Act, Clause 68 – Consistency of approvals: "An approval consent authority to a prescribed application is, to the extent of any inconsistency with the Heritage Act determination of the application, void.")			
Therefore, we will have to include NSW OEH opinions in the assessment process and assess concurrence with the NSW OEH.			
The following additional information is required to fully assess the impact of the current proposal - determination by NSW OEH under NSW Heritage Act.			
Please re-refer this application upon receiving the requested additional information.			
ADDED COMMENTS:			

Internal Referral Body	Comments
	<p>Further to a review of the determination by NSW OEH under NSW Heritage Act, any eventua be fully in keeping with: SECTION 4.55 MODIFICATION TO INTEGRATED DEVELOPMENT</p> <p>HERITAGE COUNCIL OF NSW — AMENDED GENERAL TERMS OF APPROVAL (NSW O SF18/13439 Doc: DOC18/63468).</p> <p>Subject to this, I have no further objection to this proposal form heritage perspective.</p>
	<p>Further Comments</p>
	<p>COMPLETED BY: Zoran Popovic Heritage Advisor DATE: 23/02/2018 ADDED COMMENTS DATE: 10/05/2018</p>
	<p> Make direct amendment to Strategic & Place Planning (Heritage Officer)</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>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.</p> <p> Make direct amendment to Ausgrid: (SEPP Infra.)</p>
Aboriginal Heritage Office	<p>The Aboriginal Heritage Officer provided the following comment:</p> <p>"This kind of referral (alterations to an existing building, same footprint, no sites adjacent) doesn't need to come to us as there are no issues."</p> <p> Make direct amendment to Aboriginal Heritage Office</p>
NSW Police - Local Command (CPTED)	<p>The following comment was provided by the NSW police:</p> <p>"Thank you for referring the planning proposals below to our Local Area Command for comment. Given the nature of the development we do not believe a Crime Risk Assessment and CPTED (Crime Prevention through Environmental Design) assessment is required."</p> <p> Make direct amendment to NSW Police - Local Command (CPTED)</p>
Nominated Integrated Development – NSW Office of Environment and Heritage	<p>The Office of Environment and Heritage provided a letter which supported the application subject to requirements. This letter has been included in the conditions of consent.</p> <p> Make direct amendment to Nominated Integrated Development – NSW Office of Environment and Heritage</p>

External Referral Body	Comments
Nominated Integrated Development – NSW Office of Water - Department of Primary Industries (Permit for Temporary Construction Dewatering)	<p>The following comment was provided from Water NSW:</p> <p>"Based on the information provided the development may not require any approval from Water NSW.</p> <p>However if groundwater is to be taken within the land part of the development, a water supply work approval may be required."</p> <p><u>Assessing officer comment</u> Ground water is not to be taken as a result of extending the lift overrun.</p> <p> Make direct amendment to Nominated Integrated Development – NSW Office of Water - Department of Primary Industries (Permit for Temporary Construction Dewatering)</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)

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The proposed works are located in Zone No W2 Environment Protection under the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

The objectives of this zone are as follows:

- (a) to protect the natural and cultural values of waters in this zone,
- (b) to prevent damage or the possibility of longer term detrimental impacts to the natural and cultural values of waters in this zone and adjoining foreshores,
- (c) to give preference to enhancing and rehabilitating the natural and cultural values of waters in this zone and adjoining foreshores,
- (d) to provide for the long-term management of the natural and cultural values of waters in this zone and adjoining foreshores.

Comment:

~~The proposal for changes to the lift is within the approved building envelope and is of a scale that would ensure consistency with these objectives~~

The subject property is located within the Foreshores and Waterways Area therefore the provisions of this plan apply to this development.

An assessment of the proposal against Clause 2(2) (aims of the SREP), Clause 14 (nominated planning principles), Clause 23 (relating to maintenance of a working harbour), Clause 24 (relating to interrelationship of waterway and foreshore uses), Clause 25 (relating to foreshore and waterways scenic quality) and Clause 26 (relating to maintenance, protection and enhancement of views). The proposal is considered to be consistent with the above provisions of the SREP. Given the scale of the proposed modification and the works proposed referral to the Foreshores and Waterways Planning and Development Advisory Committee

was not considered necessary.

Make direct amendment to Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

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:

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 modification relates to a lift and shaft above an existing approved structure. As such, the proposal is unlikely to cause adverse impact to the above.

- (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:

The lift and lift shaft is located within the approved envelope and as such, impact is reasonably minimised and avoided.

14 Development on land within the coastal use area

- (1)
- (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 modification relates to a lift and shaft above an existing approved structure. As such, the proposal is unlikely to cause adverse impact to the above.

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

 **Make direct amendment to SEPP (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?	
zone objectives of the LEP?	

Principal Development Standards

Manly Wharf is located outside the land application map for the Manly LEP 2013.

 **Make direct amendment to Manly Local Environmental Plan 2013**

Detailed Assessment

Note

The proposal is in Zone W2- Environment Protection for under the the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

The proposed development is land / water interface development under the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 and in accordance with clause 5 Council is the consent authority.

The subject site is located in Zone W2 Environmental Protection under SREP (Sydney Harbour Catchment), 2005.

The proposed development is not listed as a permissible use within clause 18 and as a result an assessment pursuant to clause 18(2) is necessary to consider the permissibility of the development

Clause 18(2) states the following:

“(2) Despite subclause (1), development not referred to in the Table to this clause may be carried out with development consent, but only if the consent authority is satisfied that the development:

- (a) is not inconsistent with the aims of this plan or the objectives of the zone in which it is proposed to be carried out, and
- (b) is not inconsistent with any other environmental planning instrument that applies to the land, and
- (c) will not otherwise have any adverse impacts.”

With regard to the above, the assessment is the proposed modification is acceptable given it is substantially the same as the approved development and maintains consistency with the zone objectives.

As such the development is permissible with development consent.

Make direct amendment to Note

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Manly Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

CONCLUSION

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

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

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

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

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

RECOMMENDATION

THAT Council as the consent authority grant approval to Modification Application No. Mod2017/0340 for Modification of Development Consent DA0142/2011 granted for construction of a first floor addition to the existing Manly Wharf structure including restaurant tenancies and changes to the ground floor including new retail tenancies on land at Lot 1 DP 809933,0 Wharves And Jetties, MANLY, Lot 1 DP 1170245,0 Wharves And Jetties, MANLY, Lot 2 DP 1170245,0 Wharves And Jetties, MANLY, Lot 3 DP 1170245,0 Wharves And Jetties, 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
S96 100 - Lift Over Run Amendments	22 August 2017	CotteeParker JPR
S96 100 A - Lift Over Run Amendments- Sheet 1	1 September 2017	CotteeParker JPR
S96 101 A - Lift Over Run Amendments- Sheet 2	1 September 2017	CotteeParker JPR
S96 102 A - Lift Over Run Amendments- Sheet 3	1 September 2017	CotteeParker JPR

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Letter provided by heritage Council of New South Wales. File: SF18/13439 Dof: DOC18/63468.	19 April 2018	Heritage Council of New South Wales

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

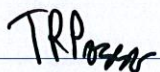
B. Add Condition 33A, Works given consent under Section 96 Plans, to read as follows:

The plans under Condition 1A above only refer to works relating to lift. All other references to new works are to be deleted from the plans prior to the issue of a Construction Certificate.

Reason: To ensure the proposed works under this modification only relate to the lift.

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

Signed



Thomas Prosser, Planner

The application is determined under the delegated authority of:




Rodney Piggott, Manager Development Assessments





























ATTACHMENT A

No notification plan recorded.

ATTACHMENT B

Notification Document	Title	Date
 2018/086615	Notification Map	31/01/2018






ATTACHMENT C

Reference Number	Document	Date
 2018/067774	Report - Letter regarding Lift Installation	24/08/2017
 2018/067777	Heritage Council NSW Exemption Notification Form	01/11/2017
 2018/067775	Report - Title Search	01/11/2017
 MOD2017/0340	Wharves And Jetties MANLY NSW 2095 - Section 96 Modifications - Section 96 (AA) Court Consent	21/12/2017
 2018/002410	Applicant Details	02/01/2018
 2018/002408	Modification Application Form	02/01/2018
 2018/003016	invoice for ram applications - Reward Pty Ltd	03/01/2018
 2018/003025	DA Acknowledgement Letter - Reward Pty Ltd	03/01/2018
 2018/003323	Request further information - MOD2017/0340	03/01/2018
 2018/006136	Proposal for MOD2017/0340 – East Esplanade, Manly	04/01/2018
 2018/029034	Request further information - MOD2017/0340 - East Esplanade, Manly	09/01/2018
 2018/067771	Report - Statement of Environmental Effects	19/01/2018
 2018/067773	Report - Statement of Heritage Impact	19/01/2018
 2018/067778	Letter from Office of Environment & Heritage	19/01/2018
 2018/067781	Plans - Master Set	19/01/2018
 2018/068256	Development Application Advertising Document - Reward Pty Ltd	19/01/2018
 2018/076204	DELETE - DA Acknowledgement Letter (integrated) - Reward Pty Ltd	24/01/2018
 2018/077268	Building Referral - MOD2017/0340 - East Esplanade MANLY	24/01/2018
 2018/077270	Heritage Referral - MOD2017/0340 - East Esplanade MANLY	24/01/2018
 2018/077272	Coastal Management Referral - MOD2017/0340 - East Esplanade MANLY	24/01/2018
 2018/114859	Email to Media - RE Development Application Advertising Document - MOD2017/0340 - East Esplanade, Manly	29/01/2018
 2018/086501	SUPERSEDED - DA Acknowledgement Letter (integrated) - Reward Pty Ltd	31/01/2018
 2018/086615	Notification Map	31/01/2018
 2018/086677	DELETE - Notification Letter - Mod	31/01/2018
 2018/088610	SUPERSEDED - Notification Letter Integrated Dev Heritage - 1770	31/01/2018
 2018/093642	Building Assessment - Fire and Disability upgrades - Assessment Referral - Mod2017/0340 - 0 Wharves And Jetties MANLY NSW 2095 - PR	02/02/2018
 2018/095821	Foreshores and Waterways Planning and Development Advisory Committee - Request for Comment - MOD2017/0340 - East Esplanade, Manly	05/02/2018
 2018/103152	Water Referrals - Response - Request for Services	08/02/2018

Progress - MOD2017/0340 East Esplanade MANLY

	2018/108350	Aboriginal Heritage Office Comments - MOD2017/0340 - East Esplanade MANLY	09/02/2018
	2018/107980	Submission - Lechner	12/02/2018
	2018/110161	DPI Fisheries re DA0142/2011 Mod2017/0340 - Manly Wharf East Esplanade - Lot 1 DP 809933	13/02/2018
	2018/110007	Submission Acknowledgement Letter - Sybille Katherine Lechner - SA2018/107980	13/02/2018
	2018/116803	Crime risk assessment and CPTED assessment - various properties	14/02/2018
	2018/115741	E-mail to Office of Environment and Heritage - RE: REQUEST FOR INFORMATION - S96 - Mod 2017/0340 - Manly Wharf	15/02/2018
	2018/119632	Building Assessment Referral Response	17/02/2018
	2018/120507	Submission - Adam Smith	19/02/2018
	2018/121091	Submission Acknowledgement Letter - Adam Smith - SA2018/120507	19/02/2018
	2018/127714	Foreshores and Waterways Planning and Development Advisory Committee Comment - MOD2017/0340 - East Esplanade, Manly	21/02/2018
	2018/132181	Office of Environment and Heritage - S96 Mod2017/0340 Manly Wharf - Increase in height of lift over-run	23/02/2018
	2018/154802	Submission - Langborne	02/03/2018
	2018/156869	Online Submission - Wellham	04/03/2018
	2018/156550	RE-NOTIFICATION - Development Application Advertising Document - Reward Pty Ltd	05/03/2018
	2018/158426	Email to Media - RE-NOTIFICATION - Development Application Advertising Document - Reward Pty Ltd	05/03/2018
	2018/156937	Submission - Wellham	06/03/2018
	2018/157369	Submission Acknowledgement Letter - Suzanne Gwendoline Wellham - SA2018/156937	06/03/2018
	2018/157390	Submission Acknowledgement Letter - Anita Joy Langborne - SA2018/154802	06/03/2018
	2018/158492	Re-notification Map	06/03/2018
	2018/158648	Re-Notification Letter - 1708 - Nominated Integrated Development	06/03/2018
	2018/159330	RE-NOTIFICATION - DA Acknowledgement Letter (integrated) - Reward Pty Ltd	06/03/2018
	2018/160192	Re-Notification Letter - 127 Letters to Objectors - Nominated Integrated Development	07/03/2018
	2018/164056	Brad Pedersen - Noise pollution from venue - E Esplanade Manly Wharf	08/03/2018
	2018/165319	Payment of IDA18/21 not received - Mod2017/0340 - Manly Wharf - DPI Fisheries	09/03/2018
	2018/171813	Natural Environment Referral Response - Coastal	13/03/2018
	2018/172068	Natural Environment Referral Response - Coastal	13/03/2018
	2018/176620	Response e-mail - RE: Payment of IDA18/21 not received	15/03/2018

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	2018/181090	RE: Payment of IDA18/21 not received - Development Application No. Mod2017/0340	16/03/2018
	2018/206645	Response - MOD2017/0340 - East Esplanade MANLY - Water NSW	28/03/2018
	2018/247132	S4.55 Modification to IDA - Amended General Terms of Approval - Manly Wharf, SHR #01434, West Esplanade, Manly	19/04/2018
	2018/300014	Notice of Determination	17/05/2018
	2018/302511	Stamped Plans	18/05/2018
