

STATEMENT OF ENVIRONMENTAL EFFECTS

Removal of existing and proposed replacement of retaining wall/steps

15 East Esplanade
Manly NSW 2095



Prepared by
Natalie Richter Planning Pty Ltd
On behalf of The Owners of SP 6749

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Executive Summary

This statement has been prepared in support of the removal and replacement of a failed section of retaining wall and associated steps at 15 East Esplanade Manly, NSW (SP 6749).

The existing retaining wall and steps are located along the western boundary of the site and provide pedestrian access to a 3 storey residential apartment building. The site is zoned R1 General Residential in the Manly Local Environment Plan (MLEP) 2013.

An engineer's report (dated 9/7/17) has identified that a 10m section of the existing retaining wall has failed and could collapse, posing a safety hazard to residents and pedestrians. The engineer's report recommends that the failed section of retaining wall be demolished and replaced. The proposed retaining wall and steps will be of the same height, alignment, design and materials as the existing structure, causing minimal environmental impact and not changing the character of the streetscape.

The proposal is permissible as the retaining wall and stairs are ancillary to the existing residential building. As the retaining wall is greater than 600mm high and located along the front boundary of the site, it is not considered exempt and hence requires merit assessment.

The proposal represents an overall improvement to the site as it will eliminate a potential hazard while maintaining the existing character of the streetscape.

Zoning Extract from Manly Local Environmental Plan (MLEP) 2013:



Site Location Map, Courtesy of Google Maps:



1. Description of the proposal

The proposal involves the removal and replacement of a failed section of retaining wall and the associated outdoor stairs at 15 East Esplanade Manly.

A structural engineer's report was prepared on 9/7/17 and is included with the application. The report identifies that the existing retaining wall has failed in a section of approximately 10m between the front boundary of the site and the building line of the residential apartment building. The wall is leaning outward by approximately 100mm and the report notes that there is shearing evident at the base of the wall. The height of the failed section of retaining wall varies from 1200mm to 1800mm. The retaining wall forms part of the pedestrian access for the site, which includes steps and a footpath.

The report states that that failed section of retaining wall is unsafe and subject to collapse. The report recommends that the failed section of wall will needs to be demolished and replaced. In addition, the concrete steps, which form part of the footing of the retaining wall, will also need to be demolished and replaced to be incorporated into the new footing.

The proposal seeks to remove the wall and replace it to a similar alignment, height, design and materials as the existing/original wall which requires replacing.

2. Planning Controls

Statutory Controls

The relevant Statutory Planning Controls include: -

- Environmental Planning and Assessment Act, 1979 (Section 4.15)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Manly Sydney Local Environmental Plan, 2013

Policy Controls

The applicable policy control documents are: -

- Manly Development Control Plan, 2013

3. Description of the site and surrounding area

The subject site is an existing 3 storey brick residential apartment building. The retaining wall and associated stairs provide pedestrian access from a Council footpath along East Esplanade to the residential building. The retaining wall has been built from the front boundary of the lot to the building line of the residential building.

The subject site adjoins an existing residential dwelling to the north (17 East Esplanade) and an 8 storey residential building to the south (1 Osborne Road). The surrounding pattern of uses and existing development is demonstrated within the photographs provided. The existing character of the streetscape is a combination of both low and high density residential and is within close proximity of a mixture of supportive commercial and recreational uses within Manly. The site is well located to bus and ferry transport.

The proposed works are to replace an existing retaining wall and associated steps in an essentially similar height, alignment, design and materials as the existing. The proposal will replace the existing wall and improve the structure and not adversely affect the surrounding street and character (which will remain essentially the same).

4. Consideration

A summary of the compliance of the proposal with the relevant planning controls is provided below:

Environmental Planning and Assessment Act, 1979 – Section 4.15

This statement contains an assessment of the proposed development in line with the following pertinent heads of consideration of Section 4.15:

4.15 Evaluation

(1) Matters for consideration—general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

- (i) any environmental planning instrument, and*
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
- (iii) any development control plan, and*
- (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*
- (v) any coastal zone management plan (within the meaning of the [Coastal Protection Act 1979](#)), that apply to the land to which the development application relates,*

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

(2) Compliance with non-discretionary development standards—development other than complying development

If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:

- (a) is not entitled to take those standards into further consideration in determining the development application, and*
- (b) must not refuse the application on the ground that the development does not comply with those standards, and*
- (c) must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards, and the discretion of the consent authority under this section and section 4.16 is limited accordingly.*

(3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:

- (a) subsection (2) does not apply and the discretion of the consent authority under this section and section 4.16 is not limited as referred to in that subsection, and*
- (b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.*

Note. The application of non-discretionary development standards to complying development is dealt with in section 4.28 (3) and (4).

(3A) Development control plans

If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

- (a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and*
- (b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and*
- (c) may consider those provisions only in connection with the assessment of that development application.*

In this subsection, standards include performance criteria.

(4) Consent where an accreditation is in force

A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the Building Code of Australia if the building product or system is accredited in respect of that requirement in accordance with the regulations.

(5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).

(6) Definitions In this section:

- (a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and*
- (b) non-discretionary development standards means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.*

The proposed retaining wall and associated steps will be of the same height, alignment, design and materials as the existing structure. This means that the proposal will match the existing situation, will have minimal environmental impact and will not impact on the existing residential character of the streetscape.

The engineers report states that the current retaining wall is leaning outwards by approximately 100mm and hence is unsafe and poses a safety hazard to residents and pedestrians. The proposal is therefore considered to be in the public interest, as it will eliminate an existing safety hazard. It will maintain the character and not create in any unreasonable environmental impacts by way of landform or tree modification. Tree removal has been separately undertaken.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The site is located within the Harbour Catchment. The works are to replace an existing structure and therefore will not adversely impact on water quality or quantity. The development is therefore consistent with the SREP.

Manly Local Environmental Plan (MLEP) 2013

Zoning:

The site is zoned as R1 Residential under MLEP 2013. The objectives of the zone include to: provide for the housing needs of the community, to provide for a variety of housing types and densities and to enable other land uses that provide facilities or services to meet the day to day needs of residents.

Permissibility:

The retaining wall and associated steps are considered ancillary to the existing 3 storey residential apartment building. The proposal supports the use of the site as a residential apartment building.

The proposal is not considered to impact on the character of the streetscape being of the same dimensions and materials as the existing structure. The proposal will not result in adverse environmental impacts, will support the use of the site and will provide a benefit to the public by removing a hazard. As such, it is considered consistent with the objectives of the MLEP 2013.

Manly Sydney Development Control Plan (MDCP) 2013

Controls relevant to the Manly Development Control Plan 2013 are tabled below. Any controls that are not listed below are not relevant to the proposal for detailed assessment.

MANLY DEVELOPMENT CONTROL PLAN (MDCP) 2013		
Section	Complies	Comments
4.4.5 Earthworks (Excavation and Filling)		
4.4.5.4 Retaining walls		
Retaining walls within 1m of the front boundary must not exceed 1m above natural ground level.	N	The works are to replace the <i>existing</i> structure. Whilst this currently does not comply numerically, the replacement will be like for like and is not considered

		<p>to alter environment impacts or the streetscape/character presentation.</p> <p>The wall is considered in character with the area and appropriate for a sloping site. The wall has been in this location for some time and is historically characteristic of this site.</p> <p>Therefore, given the existing situation, and that the proposed retaining wall and associated steps will be of the same height and alignment of the existing structure/s, the variation of this control is considered reasonable under the circumstances. The replacement wall will maintain/support the existing site situation.</p>
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Compliance with objectives:

Objectives of the MDCP 2013 include; ensuring the development contributes to the quality of the natural and built environments, encouraging development that contributes to the quality of streetscapes and townscape and ensuring development positively responds to the heritage and character of the surrounding area.

The proposal is compliant with the relevant objectives set out in the MDCP 2013 in that the proposal will maintain the existing character of the streetscape and will improve the quality of the built environment by removing a hazardous/dilapidated structure. The replacement of the structure is considered to maintain and improve the current area character and would not create adverse streetscape or environmental impacts.

5. Conclusion

The proposed removal of and construction of new retaining wall and associated stairs is consistent with the statutory and merit considerations of the *Environmental Planning and Assessment Act, 1979* and the relevant Council planning instruments and controls.

The proposed is considered an overall improvement to the site as it removes a failed section of wall, which poses a safety hazard to residents and pedestrians, while not altering the character of the existing streetscape.

Given the merits described within this statement, the benefits of the proposal and the absence of adverse environmental impacts, the application is submitted to Council for assessment and approval.

Appendix 1: Photographs



View of the site from East Esplanade



View of the site from East Esplanade



Retaining wall adjacent to 15 East Esplanade.



Adjacent residential dwelling



Footpath adjacent to existing retaining wall and stairs



Wall on the corner of Osborne Road and East Esplanade



Existing retaining wall and stairs



Existing retaining wall and stairs



Retaining wall and relationship