

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2018/0137
Responsible Officer:	Adam Croft
Land to be developed (Address):	Lot A DP 347673, 18 Boyle Street BALGOWLAH NSW 2093 Lot B DP 347673, 18 Boyle Street BALGOWLAH NSW 2093
Proposed Development:	Modification of Development Consent DA300/2012 granted for Alterations and Additions to an existing place of public worship (All Saints Anglican Church)
Zoning:	Manly LEP2013 - Land zoned SP2 Infrastructure Manly LEP2013 - Land zoned SP2 Infrastructure
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Anglican Church Property Trust Diocese of Sydney
Applicant:	All Saints Anglican Church Balgowlah
Application lodged:	21/03/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Other
Notified:	27/03/2018 to 12/04/2018
Advertised:	Not Advertised
Submissions Received:	0
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

Manly Local Environmental Plan 2013 - 6.9 Foreshore scenic protection area
 Manly Development Control Plan - 3.1 Streetscapes and Townscapes
 Manly Development Control Plan - 3.2 Heritage Considerations
 Manly Development Control Plan - 3.4.1 Sunlight Access and Overshadowing
 Manly Development Control Plan - 3.4.2 Privacy and Security
 Manly Development Control Plan - 5.4.1 Foreshore Scenic Protection Area

SITE DESCRIPTION

Property Description:	<p>Lot A DP 347673 , 18 Boyle Street BALGOWLAH NSW 2093</p> <p>Lot B DP 347673 , 18 Boyle Street BALGOWLAH NSW 2093</p>
Detailed Site Description:	<p>The subject site consists of two allotments located on the south-eastern corner of Boyle Street and Sydney Road.</p> <p>The site is regular in shape other than the corner splay with a frontage of 46.785m along Boyle Street and a secondary frontage of 25.605m to Sydney Road. The site has a surveyed area of 1538m².</p> <p>The site is located within the SP2 Place of Public Worship zone and accommodates three buildings, being a church (All Saints Anglican Church, an attached two-storey church hall and a two-storey rectory.</p> <p>The site is generally flat.</p> <p>Detailed Description of Adjoining/Surrounding Development</p> <p>Adjoining and surrounding development is characterised by detached and semi-detached dwellings, dual occupancies and residential flat buildings. The Balgowlah commercial centre is located to the west along Sydney Road.</p>

Map:



SITE HISTORY

The land has been used for religious purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

DA0300/2012 - Alterations and additions to an existing All Saints Anglican Church including extensions to the ground floor and first floor - Approved 6 March 2013.

DA0300/2012 - Part 2 - Section 96 to modify approved Alterations and additions to the existing All Saints Anglican Church including extensions to the ground floor and first floor – new internal lift, new skylights, changes to approved roof, internal modifications, changes to windows and doors - Approved 14 June 2016.

PROPOSED DEVELOPMENT IN DETAIL

The proposed modification includes works as follows:

Ground Floor

- Internal alterations to new foyer and Hall 1
- Changes to new western entry layout

First Floor

- Minor internal alterations

External

- Deletion of roof parapet around existing octagonal roof

- Deletion of roof parapet to eastern elevation
- Changes to western facade and entry
- Deletion of fibre cement facade cladding
- Changes to windows and doors

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 DA0300/2012 - Part 2, 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	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 DA0300/2012 - Part 2.
(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	Development Application DA0300/2012 - Part 2 did not require concurrence from the relevant Minister, public authority or approval body.

Section 4.55 (2) - Other Modifications	Comments
(c) it has notified the application in accordance with: (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000, Manly Local Environmental Plan 2011 and Manly Development Control Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on "Notification & Submissions Received" in this report.

Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 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	None applicable.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&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>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</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</p>

Section 4.15 'Matters for Consideration'	Comments
	<p>assessment in light of this clause within the Regulations. No Additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This Clause is not relevant to this application.</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> <p><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</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 Warringah 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 “Public Exhibition” 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.

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 of the application Council received no 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 respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> <p>Note: The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</p>
Landscape Officer	No landscape objection to proposed modifications.
Strategic & Place Planning (Heritage Officer)	<p>Further to a review of available documents, The application is a S.96, substantially the same as the originally approved DA. Therefore, it is fair to assess that impact of the current proposal will be closely similar to the impact of the previously approved DA.</p> <p>Based on the above, I have no objection to this proposal from heritage perspective and deem heritage conditions not required.</p> <p>Proposal is acceptable without conditions.</p> <p>Kind Regards Zoran Popovic Heritage Adviser</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)

Nil

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	7.6m	No change proposed	N/A	N/A
Floor Space Ratio	N/A	N/A	N/A	N/A	N/A

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes

Detailed Assessment

6.9 Foreshore scenic protection area

The proposed changes to the approved DA will have no unreasonable impact on visual aesthetic amenity or views to and from Sydney Harbour.

Manly Development Control Plan

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.2 Heritage Considerations	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
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes

Detailed Assessment

3.1 Streetscapes and Townscapes

The proposed modification includes the deletion of a number of approved building elements and results in a development that more closely resembles the existing buildings on the site.

3.2 Heritage Considerations

The subject site is not a heritage item and is not located within a conservation area. The application was referred to Council's Heritage Officer, who raised no objection to the proposed modification.

3.4.1 Sunlight Access and Overshadowing

The proposed modification includes the no additional building area and a number of roof elements are to be deleted. As such, the proposal will result in no unreasonable increase to overshadowing.

3.4.2 Privacy and Security

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

Objective 1) To minimise loss of privacy to adjacent and nearby development by:

- *appropriate design for privacy (both acoustical and visual) including screening between closely spaced buildings; and*
- *mitigating direct viewing between windows and/or outdoor living areas of adjacent buildings.*

Comment:

The proposal will result in no unreasonable privacy/overlooking impacts to the adjoining properties. No changes to windows to the southern elevation are proposed. The large east-facing window to Hall 2 is proposed to be frosted to mitigate any privacy impacts.

Objective 2) To increase privacy without compromising access to light and air. To balance outlook and views from habitable rooms and private open space.

Comment:

The proposal provides sufficient privacy and sunlight access to the subject site and adjoining properties.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The proposal will not impact opportunities for passive surveillance.

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.

5.4.1 Foreshore Scenic Protection Area

The proposed changes to the approved DA will have no unreasonable impact on visual aesthetic amenity or views to and from Sydney Harbour.

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. Mod2018/0137 for Modification of Development Consent DA300/2012 granted for Alterations and Additions to an existing place of public worship (All Saints Anglican Church) on land at Lot A DP 347673, 18 Boyle Street, BALGOWLAH, Lot B DP 347673, 18 Boyle Street, BALGOWLAH, 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
17-19 /A /11 Ground Floor Plan	March 2018	Trevor Hall Architects
17-19 /A /12 First Floor Plan	March 2018	Trevor Hall Architects
17-19 /A /13 Roof Plan	March 2018	Trevor Hall Architects
17-19 /A /16 Elevations - West & North	March 2018	Trevor Hall Architects
17-19 /A /17 Elevations - East & South	March 2018	Trevor Hall Architects
17-19 /A /20 Sections - S0 & S1	March 2018	Trevor Hall Architects
17-19 /A /21 Sections - S2, S4 & S6	March 2018	Trevor Hall Architects
17-19 /A /22 Sections - S3 & S5	March 2018	Trevor Hall Architects

c) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

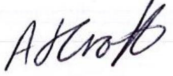
d) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

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

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

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

Signed




Adam Croft, Planner

The application is determined under the delegated authority of:



Rodney Piggott, Manager Development Assessments

ATTACHMENT A

Notification Plan	Title	Date
 2018/189738	Plans - Notification	20/03/2018

ATTACHMENT B

Notification Document	Title	Date
 2018/202306	Notification Map	27/03/2018

ATTACHMENT C

Reference Number	Document	Date
 2018/189735	Report - BCA Compliance Letter	16/03/2018
 2018/189732	Report - Access	19/03/2018
 2018/189737	Report - Statement of Modification	19/03/2018
 2018/189748	Plans - Stormwater	20/03/2018
 2018/189738	Plans - Notification	20/03/2018
 2018/189747	Plans - External	20/03/2018
 2018/189730	Report - Statement of Environmental Effects	21/03/2018
 2018/189727	Builders Quote	21/03/2018
 MOD2018/0137	18 Boyle Street BALGOWLAH NSW 2093 - Section 96 Modifications - Section 96 (2) Environmental Impact	21/03/2018
 2018/189482	DA Acknowledgement Letter - All Saints Anglican Church Balgowlah	21/03/2018
 2018/189722	Modification Application Form	21/03/2018
 2018/189725	Applicant Details	21/03/2018
 2018/189726	Owner's Consent	21/03/2018
 2018/189752	Plans - Master Set	21/03/2018
 2018/189751	Plans - Internal	21/03/2018
 2018/202352	Building Assessment - Fire and Disability upgrades - Assessment Referral - Mod2018/0137 - 18 Boyle Street BALGOWLAH NSW 2093-PR	26/03/2018
 2018/202278	ARP Notification Map	27/03/2018
 2018/202287	DA Acknowledgement Letter (not integrated) - All Saints Anglican Church Balgowlah	27/03/2018
 2018/202306	Notification Map	27/03/2018
 2018/202884	Notification Letter - 74	27/03/2018
 2018/204416	Building Assessment Referral Response	27/03/2018
 2018/231304	Confirmation of Notification sign - MOD2018/0137 - 18 Boyle Street Balgowlah	12/04/2018
 2018/234356	Heritage Referral Response - Mod2018/0137 - 18 Boyle Street	13/04/2018
 2018/266103	DA300/2012 - S96 - Part 2 - Plans	01/05/2018
 2018/267945	Site Photos	02/05/2018
 2018/273638	Landscape Referral Response	03/05/2018