

DEVELOPMENT APPLICATION ASSESSMENT REPORT

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| Application Number: | DA2020/0121 |
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| Responsible Officer: | Thomas Burns |
| Land to be developed (Address): | Lot 2 DP 1134642, 1 Kangaroo Street MANLY NSW 2095 |
| Proposed Development: | Reconstruction of front boundary wall |
| Zoning: | Manly LEP2013 - Land zoned R1 General Residential |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Land and Environment Court Action: | No |
| Owner: | Presbyterian Church NSW |
| Applicant: | PWS Building Consultancy |

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| Application Lodged: | 13/02/2020 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Other |
| Notified: | 27/02/2020 to 12/03/2020 |
| Advertised: | Not Advertised |
| Submissions Received: | 0 |
| Clause 4.6 Variation: | Nil |
| Recommendation: | Approval |

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| Estimated Cost of Works: | \$ 9,150.00 |
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PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for reparations works to the existing masonry wall located along the southern (Raglan Street) and eastern (Kangaroo Street) boundaries.

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 - 5.10 Heritage conservation
 Manly Local Environmental Plan 2013 - 6.1 Acid sulfate soils
 Manly Development Control Plan - 3.2 Heritage Considerations
 Manly Development Control Plan - 4.1.8 Development on Sloping Sites
 Manly Development Control Plan - 4.1.10 Fencing
 Manly Development Control Plan - 4.4.5 Earthworks (Excavation and Filling)

SITE DESCRIPTION

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| Property Description: | Lot 2 DP 1134642 , 1 Kangaroo Street MANLY NSW 2095 |
| Detailed Site Description: | <p>The subject site consists of one (1) allotment located on the corner of Kangaroo Street (western side) and Raglan Street (northern side) in Manly. Vehicular and pedestrian access is provided via the primary frontage along Kangaroo Street. The site has a small frontage of approximately 1.52m along Augusta Lane that is provided via an access handle. It is noted that the frontage to Augusta Lane is bordered by a fence.</p> <p>The site is located within the R1 General Residential zone pursuant to the MLEP 2013 and accommodates St Andrews Manse, which is a two (2) storey sandstone structure with white verandahs and gable ends. The structure is identified as Heritage Item No. I217 'St Andrew's Hall and manse' within Schedule 5 of the MLEP 2013.</p> <p>The site falls from the northern boundary towards the southern boundary (secondary frontage). A number of small trees and shrubs are located along the primary and secondary frontages.</p> <p>The site is identified as containing 'Acid Sulfate Soils Class 5' under the provisions of the MLEP 2013.</p> <p>The site is identified on the 'Sydney Harbour Catchment Map' pursuant to the SREP (Sydney Harbour Catchment) 2005.</p> <p>Detailed Description of Adjoining and Surrounding</p> |

Development

Adjoining and surrounding development comprises a mix of commercial and residential development, with the locality also accommodating an early education care facility, private recreation areas and public recreation areas. A number of heritage items are located within the area, with the Pittwater Road Conservation Area being located approximately 80m to the east.

Map:



SITE HISTORY

The site has been used by the Presbyterian community for a significant period of time dating back to 1891. A search of Council's records has revealed no recent applications relevant to this particular allotment. It is noted that the western adjoining property (54 Raglan Street), which occupies St Andrews Hall, has been subject to recent planning approvals.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under 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 | Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for community purposes for an extended period of time. The proposed |

| Section 4.15 Matters for Consideration' | Comments |
|--|---|
| | development retains the existing use of the site, and is not considered a contamination risk. |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan | Manly Development Control Plan 2013 applies to this proposal. |
| Section 4.15 (1) (a)(iiiia) – 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 of consent.</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 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 2013 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 | No submissions were received in relation to this Development Application. |
| 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 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.

REFERRALS

| Internal Referral Body | Comments |
|---|--|
| Landscape Officer | <p>No landscape issues are raised with the proposed reinstatement/reconstruction of the impact damaged front retaining wall at this property, subject to protection of existing vegetation in close proximity to the works.</p> <p>Council's Landscape section have assessed the application against the landscape controls of Manly DCP 2013, section 3: General Principles of Development, and section 4: Development Controls and Development Types, and specifically: 3.3.1 Landscaping Design; 3.3.2 Preservation of Trees or Bushland Vegetation; and 4.1.5 Open Space and Landscaping.</p> |
| NECC (Development Engineering) | The applicant proposed to repair the existing damaged boundary wall. Development Engineering has no objection to the application. |
| Strategic and Place Planning (Heritage Officer) | HERITAGE COMMENTS |
| | Discussion of reason for referral |
| | <p>The proposal has been referred to Heritage as the subject property is a heritage item:</p> <p>1217 - St Andrew's Hall and manse - 54 Raglan Street Manly (Note - listing includes 1 Kangaroo Street)</p> |
| | Details of heritage items affected |
| | <p>Details of the item as contained within the Manly heritage inventory is as follows:</p> <p><u>Statement of significance:</u> St Andrews Hall and Manse is of significance for Manly area for its historical, aesthetic and social reasons, and for the reasons of rarity and representativeness. The site has a long association with the local Presbyterian community since the 1880s, with the current buildings created in 1891 (Manse) i.e. in 1906 (Hall). The Hall and Manse, in concurrence with the adjoining church building, make a major contribution to the townscape character. The Manse is an importance work of architect H C Kent. The Hall is an important work of architect Frederick Trenchard Smith, who also designed the early alterations to the Hall in 1913. Each of the two buildings is representative of its type and date of creation, additionally rare on the local area level for its fine architectural qualities. St Andrews Hall and Manse is a related place, in heritage terms, to the separately listed St Andrews Presbyterian Church.</p> <p><u>Physical description:</u> Hall: constructed c.1906 in red brick with stone foundations, lintels and a stone course at sill height, the building and its ornament are strongly influenced by Federation style architecture.</p> |

| Internal Referral Body | Comments | | | | | | | | | | | | | | | | | | |
|--|---|--|----|--|------------------------------|----|--|-----------------------------|----|--|---------------------------------------|----|--|---|----|--|-------|-----|--|
| | <p>Manse: c.1890 sandstone, two storey building (?) re-roofed in tile. The many gables to the roof and intricate joinery of verandahs and gable ends are typical of Federation style architecture. The two buildings form a significant grouping in the streetscape.</p> <p>Other relevant heritage listings</p> <table border="1" data-bbox="518 562 949 1104"> <tr> <td>Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</td> <td>No</td> <td></td> </tr> <tr> <td>Australian Heritage Register</td> <td>No</td> <td></td> </tr> <tr> <td>NSW State Heritage Register</td> <td>No</td> <td></td> </tr> <tr> <td>National Trust of Aust (NSW) Register</td> <td>No</td> <td></td> </tr> <tr> <td>RAIA Register of 20th Century Buildings of Significance</td> <td>No</td> <td></td> </tr> <tr> <td>Other</td> <td>N/A</td> <td></td> </tr> </table> <p>Consideration of Application</p> <p>The proposal seeks to reinstate the sandstone retaining wall and concrete blockwork fence that was damaged. The subject property is a heritage item with the sandstone wall considered to be of higher heritage significance. Heritage considers that replacing the damaged sandstone blocks with new sandstone blocks is acceptable but will require one condition. The replacement sandstone blocks must be of similar size to the retained sandstone blocks and have a similar 'rough cut' finish. The top course must include the smooth angled return.</p> <p>Therefore Heritage raises no objections and requires one condition.</p> <p>Consider against the provisions of CL5.10 of MLEP.</p> <p>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> <p>Further Comments</p> <p>COMPLETED BY: Brendan Gavin, Principal Planner</p> <p>DATE: 18 March 2020</p> | Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 | No | | 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 | N/A | |
| Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 | No | | | | | | | | | | | | | | | | | | |
| 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 | N/A | | | | | | | | | | | | | | | | | | |

| External Referral Body | Comments |
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| Ausgrid: (SEPP Infra.) | The proposal was referred to Ausgrid and a response was provided |

| External Referral Body | Comments |
|------------------------|--|
| | on 05 March 2020, granting consent to the application subject to conditions. The recommended conditions have been included as part of the conditions of consent. |

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)

SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for community 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 Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the community land use.

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP 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 and a response was provided on 05 March 2020, granting consent to the application subject to conditions. The recommended conditions have been included as

part of the conditions of consent.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The subject property is located within the Sydney Harbour Catchment therefore the provisions of this plan apply to this development. Accordingly, the proposed development is assessed against the provisions entailed within Clause 2(1), Clause 13 and Clause 21 of the SREP (Sydney Harbour Catchment) 2005.

2 Aims of plan

(1) This plan has the following aims with respect to the Sydney Harbour Catchment—

(a) to ensure that the catchment, foreshores, waterways and islands of Sydney Harbour are recognised, protected, enhanced and maintained—

(i) as an outstanding natural asset, and

(ii) as a public asset of national and heritage significance,

for existing and future generations,

(b) to ensure a healthy, sustainable environment on land and water,

(c) to achieve a high quality and ecologically sustainable urban environment,

(d) to ensure a prosperous working harbour and an effective transport corridor,

(e) to encourage a culturally rich and vibrant place for people,

(f) to ensure accessibility to and along Sydney Harbour and its foreshores,

(g) to ensure the protection, maintenance and rehabilitation of watercourses, wetlands, riparian lands, remnant vegetation and ecological connectivity,

(h) to provide a consolidated, simplified and updated legislative framework for future planning.

Comment:

The site is located approximately 370m to the north of the nearby foreshore area. As such, the proposed development will not unreasonably detract from the cultural, ecological or commercial values of the Sydney Harbour.

13 Sydney Harbour Catchment

The planning principles for land within the Sydney Harbour Catchment are as follows—

(a) development is to protect and, where practicable, improve the hydrological, ecological and geomorphological processes on which the health of the catchment depends,

- (b) the natural assets of the catchment are to be maintained and, where feasible, restored for their scenic and cultural values and their biodiversity and geodiversity,*
- (c) decisions with respect to the development of land are to take account of the cumulative environmental impact of development within the catchment,*
- (d) action is to be taken to achieve the targets set out in Water Quality and River Flow Interim Environmental Objectives: Guidelines for Water Management: Sydney Harbour and Parramatta River Catchment (published in October 1999 by the Environment Protection Authority), such action to be consistent with the guidelines set out in Australian Water Quality Guidelines for Fresh and Marine Waters (published in November 2000 by the Australian and New Zealand Environment and Conservation Council),*
- (e) development in the Sydney Harbour Catchment is to protect the functioning of natural drainage systems on floodplains and comply with the guidelines set out in the document titled Floodplain Development Manual 2005 (published in April 2005 by the Department),*
- (f) development that is visible from the waterways or foreshores is to maintain, protect and enhance the unique visual qualities of Sydney Harbour,*
- (g) the number of publicly accessible vantage points for viewing Sydney Harbour should be increased,*
- (h) development is to improve the water quality of urban run-off, reduce the quantity and frequency of urban run-off, prevent the risk of increased flooding and conserve water,*
- (i) action is to be taken to achieve the objectives and targets set out in the Sydney Harbour Catchment Blueprint, as published in February 2003 by the then Department of Land and Water Conservation,*
- (j) development is to protect and, if practicable, rehabilitate watercourses, wetlands, riparian corridors, remnant native vegetation and ecological connectivity within the catchment,*
- (k) development is to protect and, if practicable, rehabilitate land from current and future urban salinity processes, and prevent or restore land degradation and reduced water quality resulting from urban salinity,*
- (l) development is to avoid or minimise disturbance of acid sulfate soils in accordance with the Acid Sulfate Soil Manual, as published in 1988 by the Acid Sulfate Soils Management Advisory Committee.*

Comment:

The proposed development is not visible from the foreshore area. Consequently, the development will have no unreasonable visual impacts on the waterways and foreshore area. No excavation works area required to facilitate the proposal. As such, the development will not lower the water table on the subject site or adjacent Class 1, 2, 3 or 4 land.

21 Biodiversity, ecology and environment protection

The matters to be taken into consideration in relation to biodiversity, ecology and environment

protection are as follows—

- (a) development should have a neutral or beneficial effect on the quality of water entering the waterways,
- (b) development should protect and enhance terrestrial and aquatic species, populations and ecological communities and, in particular, should avoid physical damage and shading of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities),
- (c) development should promote ecological connectivity between neighbouring areas of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities),
- (d) development should avoid indirect impacts on aquatic vegetation (such as changes to flow, current and wave action and changes to water quality) as a result of increased access,
- (e) development should protect and reinstate natural intertidal foreshore areas, natural landforms and native vegetation,
- (f) development should retain, rehabilitate and restore riparian land,
- (g) development on land adjoining wetlands should maintain and enhance the ecological integrity of the wetlands and, where possible, should provide a vegetative buffer to protect the wetlands,
- (h) the cumulative environmental impact of development,
- (i) whether sediments in the waterway adjacent to the development are contaminated, and what means will minimise their disturbance.

Comment:

Given the minor nature of the works and the proximity of the site in relation to the foreshore area, it is not anticipated that sediments will migrate to the foreshore area. Therefore, the proposed development will not unreasonably impact the waterway and aquatic vegetation.

Having regard to the above assessment, the proposal is considered to be consistent with the relevant provisions entailed within the SREP (Sydney Harbour Catchment) 2005. Given the minor scale of the proposed works, the proposal was not referred to the Foreshore and Waterways Planning and Development Advisory Committee.

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 | Proposed | % Variation | Complies |
|----------|-------------|----------|-------------|----------|
| | | | | |

| | | | | |
|----------------------|-----------|---------------------------|-----|-----|
| Height of Buildings: | 8.5m | 2.2m | - | Yes |
| Floor Space Ratio | FSR:0.6:1 | No change to existing FSR | N/A | N/A |

Compliance Assessment

| Clause | Compliance with Requirements |
|----------------------------|------------------------------|
| 4.3 Height of buildings | Yes |
| 5.10 Heritage conservation | Yes |
| 6.1 Acid sulfate soils | Yes |
| 6.12 Essential services | Yes |

Detailed Assessment

5.10 Heritage conservation

The structure present on the site is identified as Heritage Item No. I217 'St Andrew's Hall and manse' within Schedule 5 of the MLEP 2013. Accordingly, the application was referred to Council's Heritage Officer for comments.

Council's Heritage Officer raised no objections to the proposal, subject to a condition requiring the replacement sandstone blocks to be compatible with the existing sandstone blocks along the front masonry structure. Subject to compliance with this condition, the proposed development will satisfy the relevant provisions within Clause 5.10 of the MLEP 2013.

6.1 Acid sulfate soils

The site is identified as containing 'Acid Sulfate Soils Class 5' pursuant to the MLEP 2013. As such, the Consent Authority must consider the potential impacts on acid sulfate soils.

The proposed development comprises repair works to an existing masonry wall, with no excavations works being required to facilitate the development. Therefore, the proposed development will not lower the watertable on adjacent Class 1, 2, 3 or 4 land. The proposed development satisfies the provisions entailed within Clause 6.1 of the MLEP 2013.

Manly Development Control Plan

Built Form Controls

There are no applicable built form controls for the proposed works.

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| 3.1 Streetscapes and Townscapes | Yes | Yes |
| 3.1.1 Streetscape (Residential areas) | Yes | Yes |
| 3.2 Heritage Considerations | Yes | Yes |
| 3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise) | Yes | Yes |
| 3.4.1 Sunlight Access and Overshadowing | Yes | Yes |

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| 3.4.2 Privacy and Security | Yes | Yes |
| 3.4.3 Maintenance of Views | Yes | Yes |
| 3.8 Waste Management | Yes | Yes |
| 3.10 Safety and Security | Yes | Yes |
| 4.1 Residential Development Controls | Yes | Yes |
| 4.1.8 Development on Sloping Sites | Yes | Yes |
| 4.1.10 Fencing | No | Yes |
| 4.4.5 Earthworks (Excavation and Filling) | No | Yes |

Detailed Assessment

3.2 Heritage Considerations

Council's Heritage Officer has assessed the application against the requirements of this control and raised no objections, subject to a condition requiring the replacement sandstone blocks to be compatible with the existing sandstone blocks along the front masonry structure. Subject to compliance with this condition, the proposed development will not detract from the heritage significance of the subject site and adjacent heritage items within the locality.

4.1.8 Development on Sloping Sites

The proposal comprises reparation works to an existing dilapidated masonry wall. In this regard, the proposal is not likely exacerbate landslip risks on the subject site or adjoining properties.

4.1.10 Fencing

Clause 4.1.10 of the MDCP 2013 requires fencing along front boundaries to be constructed to a maximum height of 1m above the existing ground level. The height of the proposed structure ranges between 1.68m and 2.2m, which is inconsistent with the prescribed control.

With regard to the consideration for a variation, the proposed development is considered against the underlying objectives of the control. The control relies upon the objectives specified within Clause 3.1 of the MDCP 2013.

Objective 1) To minimise any negative visual impacts of walls, fences and carparking on the street frontage.

Comment:

The proposal comprises reparation works to the existing dilapidated masonry wall. The height of the existing structure will remain unchanged as a result of the proposed development. Furthermore, a suitable condition has been included with this consent requiring the replacement sandstone blocks to be compatible with the existing structure. Subject to compliance with this condition, the proposed development will be compatible with the streetscape, thereby minimising the visual impact of the masonry wall.

Objective 2) To ensure development generally viewed from the street complements the identified streetscape.

Comment:

As noted above, a suitable condition has been included with this consent requiring the replacement sandstone blocks to be compatible with the existing structure. As such, the proposed development will compliment the established heritage character of the streetscape.

Objective 3) To encourage soft landscape alternatives when front fences and walls may not be appropriate.

Comment:

It is considered that the proposed structure is appropriate for the site, given it compliments the heritage character of the streetscape.

Having regard to the above assessment, it is concluded that the applicable objectives of the control have been achieved. Therefore, the application is supported on merit.

4.4.5 Earthworks (Excavation and Filling)

Clause 4.4.5 of the MDCP 2013 stipulates that retaining walls within 1m of the front boundary must not exceed 1m above the existing ground level. The height of the masonry wall/fence structure ranges between 1.68m and 2.2m, which contravenes this requirement.

With regard to the consideration for a variation, the proposed development is considered against the underlying objectives of the control as follows:

Objective 1) To retain the existing landscape character and limit change to the topography of vegetation of the Manly Local Government Area by:

- *Limiting excavation, "cut and fill" and other earthworks;*
- *Discouraging the alteration of the natural flow of ground and surface water;*
- *Ensuring that development not cause sedimentation to enter drainage lines (natural or otherwise) and waterways; and*
- *Limiting the height of retaining walls and encouraging the planting of native plant species to soften their visual impact.*

Comment:

The proposal comprises reparation works to an existing dilapidated structure, with no excavation works being proposed to facilitate the development. As such, the proposal will not alter the natural flow of ground and surface water. Moreover, the proposal will not cause sediments to enter drainage lines and waterways. Given the height of the existing structure remains unchanged, the visual impacts of the proposal will be minimal.

Having regard to the above assessment, it is concluded that the applicable objectives of the control have been achieved. Therefore, the application is supported on merit.

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

Northern Beaches Section 7.12 Contributions Plan 2019

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of 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 Development Consent to DA2020/0121 for Reconstruction of front boundary wall on land at Lot 2 DP 1134642, 1 Kangaroo Street, MANLY, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

| Architectural Plans - Endorsed with Council's stamp | | |
|--|-----------------|--------------------|
| Drawing No. | Dated | Prepared By |
| 220121/A3 Issue A - Part Site Plan | 24 January 2020 | DW Knox & Partners |
| 220121/A3 Issue A - Elevations | 24 January 2020 | DW Knox & Partners |

| Engineering Plans | | |
|--|-----------------|--------------------|
| Drawing No. | Dated | Prepared By |
| 220121/S2 Issue A - Structural Elevation - Southern Face | 24 January 2020 | DW Knox & Partners |
| 220121/S3 Issue A - Structural Elevation - Eastern Face | 24 January 2020 | DW Knox & Partners |
| 220121/S4 Issue A - Typical Sections & Details | 24 January 2020 | DW Knox & Partners |

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

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

| Waste Management Plan | | |
|------------------------------|------------------|--------------------------|
| Drawing No./Title. | Dated | Prepared By |
| Waste Management Plan | 10 February 2020 | PWS Building Consultancy |

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

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

2. **Compliance with Other Department, Authority or Service Requirements**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

| Other Department, Authority or Service | EDMS Reference | Dated |
|---|---------------------------|---------------|
| Ausgrid | Response Ausgrid Referral | 05 March 2020 |

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

4. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged

during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

(k) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

(l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

(m) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.

(1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

5. **All works within Property Boundaries**

The applicant is to ensure that all works are located wholly within the property boundaries.

FEES / CHARGES / CONTRIBUTIONS

6. **Security Bond**

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

7. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

8. **Replacement Sandstone Blocks**

The proposed replacement sandstone blocks must be of a similar size as the existing sandstone blocks and include a rough cut finish to its external facing side. The top course must include the smooth angled return. Details demonstrating compliance with this conditions are to be submitted to the Principal Certifying Authority.

Reason: To preserve and repair heritage significant fabric.

9. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

10. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At completion of the structure to ensure the height is in accordance with the levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Certifying Authority.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

11. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Certifying Authority.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

12. **Protection of existing vegetation**

a) Existing vegetation shall be retained and protected as follows:

- i) all vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments or legislation,
- ii) all vegetation located on adjoining properties,
- iv) all road reserve vegetation.

b) Vegetation protection shall be generally undertaken as follows:

- i) all vegetation protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites,
- ii) removal of existing vegetation roots greater than 25mm is not permitted without consultation with a AQF Level 5 Arborist,
- iii) existing ground levels shall remain under the protection zone of vegetation to be retained, unless authorised by AQF Level 5 Arborist,
- iv) any vegetation roots exposed during excavation with a diameter greater than 25mm within the vegetation protection zone must be assessed by an Arborist. Details including photographic evidence of works undertaken shall be submitted by an AQF Level 5 Arborist to the Certifying Authority,
- v) to minimise the impact on vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the

canopy dripline of vegetation required to be retained,
vi) no vegetation roots greater than 25mm diameter are to be cut from protected vegetation unless authorised by a Project Arborist on site,
vii) all structures are to bridge vegetation roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
viii) excavation for utility lines is not permitted within the vegetation protection zone, without consultation with a AQF Level 5 Arborist, to provide for root protection measures,
ix) should either or all of vi), vii) and viii) occur during site establishment and construction works, a AQF Level 5 Arborist shall provide recommendations for vegetation protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
x) any temporary access to, or location of scaffolding within the vegetation protection zone of protected vegetation to be retained during the construction works, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009,

Reason: to retain and protect significant planting on development and adjoining sites.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

13. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Certifying Authority confirming that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

14. **Removal of All Temporary Structures/Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure bushland management.

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

Signed



Thomas Burns, Planner

The application is determined on 03/04/2020, under the delegated authority of:



A handwritten signature in black ink, appearing to read "Matthew Edmonds".

Matthew Edmonds, Manager Development Assessments