

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2019/1533
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<b>Responsible Officer:</b>	Kent Bull
<b>Land to be developed (Address):</b>	Lot 1 DP 115867, 48 - 50 Darley Road MANLY NSW 2095
<b>Proposed Development:</b>	Partial demolition and reconstruction of existing facade and internal walls
<b>Zoning:</b>	Manly LEP2013 - Land zoned R3 Medium Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Peter Mangraviti Angelie Mangraviti Elena Mangraviti Joseph Mangraviti
<b>Applicant:</b>	Maincom Pty Ltd

<b>Application Lodged:</b>	27/12/2019
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	27/01/2020 to 10/02/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 342,999.89
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### PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the partial demolition and reconstruction of the existing south-eastern facade that includes the replacement of external windows and some internal walls.

### ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 4.4 Floor space ratio

Manly Local Environmental Plan 2013 - 5.10 Heritage conservation

Manly Development Control Plan - 3.2 Heritage Considerations

Manly Development Control Plan - 4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)

Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 115867 , 48 - 50 Darley Road MANLY NSW 2095
<b>Detailed Site Description:</b>	<p>The subject site is known as 48-50 Darley Road, Manly and legally referred to as Lot 1 DP 115867.</p> <p>The site consists of one (1) allotment located on the south-western corner of Darley Road and Ashburner Street.</p> <p>The site is regular in shape with a frontage of 11.23m along Darley Road, an average depth of 33.53m and an overall site area of 376.7m<sup>2</sup>.</p> <p>The site is located within the R3 Medium Density Residential zone and accommodates a two storey boarding house and vehicular access via an existing driveway from Ashburner Street to an existing garage to the rear of the site.</p> <p>The site is generally level, with no discernible slope throughout the site.</p> <p>With the exception of landscape plantings to the front of the site facing Darley Road, the site is generally free of landscaping/vegetation and does not contain any native canopy trees or the like.</p>

The subject site is located within a heritage conservation area and is within proximity of a number of heritage items listed in Schedule 5 of Manly LEP 2013 including: C2 - Town Centre Heritage Conservation Area, Item I123 - Residential flat building - 17 Darley Road, Item I129 - One of a pair of semi-detached cottages - 42 Darley Road, and Item I79 - Street Trees - Ashburner Street.

### Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by combination of low-density and medium-density residential dwellings. Within the immediate vicinity of the site, there are properties from the Federation-Inter War period to residential flats built between the Post-War to the later twentieth century. The site is also in close proximity to Manly Town Centre.

Map:



### SITE HISTORY

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

DA5420/1992- Operation of premises as a boarding house.

An order was given to 48-50 Darley Road by Manly Council on 20 May 2015 under Section 121B of the Environmental Planning Assessment Act 1979 on the grounds that the premises was being used for the purposes of short-term accommodation which is prohibited.

On the 16 February 2017, Development Application No. 222/2016 for the conversion of the existing building into a Residential Flat Building consisting of six (6) residential apartments, including internal

reconfiguration, changes to exterior, balconies, rooftop terrace, changes to roof and Strata subdivision, was granted consent by the Northern Beaches Independent Assessment Panel.

On the 4 September 2019, Emergency Development Control Order Ref. EPA2019/0254 under Section 9.34 of, and clause 6(2)(c) of Part 5 of Schedule 5 to the Environmental Planning and Assessment Act 1979 was made to undertake repair or make structural alterations to the building.

**APPLICATION HISTORY**

24 January 2020

Evidence provided to Council of the notification sign being erected on site.

7 February 2020

Site inspection of the Ashburner Street frontage undertaken by the Development Assessment Officer.

**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	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)(iiia) – 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&amp;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 50(1A)</u> of the EP&amp;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&amp;A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000</p>

Section 4.15 Matters for Consideration'	Comments
	<p>requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;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> <p><u>Clause 143A</u> of the EP&amp;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>
<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>	<p><b>(i) Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p><b>(ii) Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p><b>(iii) Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification &amp; Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

## 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 process council is in receipt of 1 submission/s from:

Name:	Address:
Ms Heather Anne Prince	PO Box 73 CROYDON NSW 2132

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

- Clarification concerning the extent of the works proposed

Comment:  
The proposal is for remedial repairs to the south-eastern elevation (facing Ashburner Street) of the building. The repairs relate to the existing façade, windows along this elevation and to some internal walls. The application does not seek to increase the floor area on the ground or first floor.
- Works associated to the upper floor balcony areas (North East Elevation) facing Darley Road

Comment:  
There is no indication on the plans provided that works are to be undertaken on the north eastern elevation (facing Darley Street). Should the application be approved, a condition is placed to ensure that the approval is only for future works that are consistent with the proposal and not for any existing works.

## 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 Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
NECC (Bushland and Biodiversity)	<p>This application was assessed against relevant biodiversity provisions.</p> <p>The proposal is for the remedial repair of a residential flat building including demolition and replacement of damaged facade, floor and windows along Ashburner Street. The proposal is consistent with</p>

Internal Referral Body	Comments										
	<p>biodiversity controls.</p> <p>There are Council street trees within close proximity to the works which must be protected throughout construction.</p>										
NECC (Development Engineering)	The application proposed the remedial works on existing building. Development Engineering has no objection to the application.										
Strategic and Place Planning (Heritage Officer)	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="background-color: #cccccc;">HERITAGE COMMENTS</th> </tr> <tr> <th colspan="2" style="background-color: #cccccc;">Discussion of reason for referral</th> </tr> </thead> <tbody> <tr> <td colspan="2"> <p>The proposal has been referred to Heritage as it is within a conservation area and within proximity of a number of heritage items.</p> <p><b>C2 - Town Centre Heritage Conservation Area</b></p> <p><b>Item I123 - Residential flat building</b> - 17 Darley Road</p> <p><b>Item I129 - One of a pair of semi-detached cottages</b> - 42 Darley Road</p> <p><b>Item I79 - Street Trees</b> - Ashburner Street</p> </td> </tr> <tr> <th colspan="2" style="background-color: #cccccc;">Details of heritage items affected</th> </tr> <tr> <td colspan="2"> <p>Details of the heritage items as contained within the Manly Heritage inventory are as follows:</p> <p><b>C2 - Town Centre Heritage Conservation Area</b> The Manly Town Centre Conservation Area (TCCA) is of local heritage significance as a reflection of the early development of Manly as a peripheral harbor and beachside village in the fledgling colony of New South Wales. This significance is enhanced by its role as a day-trip and holiday destination during those early years, continuing up to the present time, and its association with H G Smith, the original designer and developer of the TCCA as it is today. The physical elements of the TCCA reflect this early development and its continued use for recreational purposes, most notably the intact promenade quality of The Corso and its turn of the century streetscape, as well as key built elements such as hotels, and remaining original commercial and small scale residential buildings.</p> <p><b>Item I123 - Residential flat building</b> Statement of significance: It demonstrates the pattern of development of Manly and in particular, the flat area south of The Corso. The residential building reflects the rapid development of the area in the 1920's corresponding with the growth of the commuter class and rising popularity of apartment dwelling. The building is a good and relatively intact example of Inter-War Mediterranean style of architecture. It also has associative historical significance because</p> </td> </tr> </tbody> </table>	HERITAGE COMMENTS		Discussion of reason for referral		<p>The proposal has been referred to Heritage as it is within a conservation area and within proximity of a number of heritage items.</p> <p><b>C2 - Town Centre Heritage Conservation Area</b></p> <p><b>Item I123 - Residential flat building</b> - 17 Darley Road</p> <p><b>Item I129 - One of a pair of semi-detached cottages</b> - 42 Darley Road</p> <p><b>Item I79 - Street Trees</b> - Ashburner Street</p>		Details of heritage items affected		<p>Details of the heritage items as contained within the Manly Heritage inventory are as follows:</p> <p><b>C2 - Town Centre Heritage Conservation Area</b> The Manly Town Centre Conservation Area (TCCA) is of local heritage significance as a reflection of the early development of Manly as a peripheral harbor and beachside village in the fledgling colony of New South Wales. This significance is enhanced by its role as a day-trip and holiday destination during those early years, continuing up to the present time, and its association with H G Smith, the original designer and developer of the TCCA as it is today. The physical elements of the TCCA reflect this early development and its continued use for recreational purposes, most notably the intact promenade quality of The Corso and its turn of the century streetscape, as well as key built elements such as hotels, and remaining original commercial and small scale residential buildings.</p> <p><b>Item I123 - Residential flat building</b> Statement of significance: It demonstrates the pattern of development of Manly and in particular, the flat area south of The Corso. The residential building reflects the rapid development of the area in the 1920's corresponding with the growth of the commuter class and rising popularity of apartment dwelling. The building is a good and relatively intact example of Inter-War Mediterranean style of architecture. It also has associative historical significance because</p>	
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Internal Referral Body	Comments												
	<p>of its association with the local architect, Frederick H. Fuller, who designed a number of blocks of flats in the Manly area.</p> <p>Physical description: Three storey polychromatic face brickwork apartment building featuring curved gable and detailed brickwork. The windows have framed double hung sashes, are grouped in pairs with arched brickwork, curved heads and moulded brick sills. The upper sashes are divided into small panes. There are enclosed verandahs on the corners with pairs of arched openings. Some of the verandahs have been enclosed, most sympathetically. The low face brickwork fence appears to be a later addition to the base of the original.</p> <p><b>Item I129 - One of a pair of semi-detached cottages</b></p> <p>Statement of significance: The property demonstrates the pattern of development of Manly, in particular, the flat area south of The Corso. These semi-detached cottages reflect the early development of the area, examples of dwellings constructed for more prosperous residents. The cottages are good and relatively intact examples of early Federation cottages in this area of Manly. They form part of a cohesive group of Federation Style semi-detached cottages built as an investment and this pair retains the essential features of the style in the original configuration.</p> <p>Physical description: Pair of face brickwork, semi-detached cottages within a group of several similar yet less intact examples. Feature hipped, terracotta tiled roof with ornamental ridge capping gable feature. Gable ends half timbered with roughcast infill and small timber shingle clad flying gable. Tall face brickwork chimney with roughcast band. Awning roof to front verandah is a continuation of the main roof but at a shallower angle with boarded ends and terracotta tile cladding. Fluted timber columns with unusual curved bracket detail. Projecting bay at front with group of three casement windows and highlights with coloured glazing.</p> <p><b>Item I79 - Street Trees</b></p> <p>Statement of significance: Aesthetic, Historic Municipal planting</p> <p>Physical description: Norfolk Island pines on west side of street only planted in carriageway.</p> <table border="1" data-bbox="512 1787 1439 2136"> <thead> <tr> <th colspan="3" data-bbox="512 1787 1439 1832">Other relevant heritage listings</th> </tr> </thead> <tbody> <tr> <td data-bbox="512 1832 853 1966">Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</td> <td data-bbox="853 1832 944 1966">No</td> <td data-bbox="944 1832 1439 1966"></td> </tr> <tr> <td data-bbox="512 1966 853 2040">Australian Heritage Register</td> <td data-bbox="853 1966 944 2040">No</td> <td data-bbox="944 1966 1439 2040"></td> </tr> <tr> <td data-bbox="512 2040 853 2136">NSW State Heritage Register</td> <td data-bbox="853 2040 944 2136">No</td> <td data-bbox="944 2040 1439 2136"></td> </tr> </tbody> </table>	Other relevant heritage listings			Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No		Australian Heritage Register	No		NSW State Heritage Register	No	
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Internal Referral Body	Comments		
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	No	
	<b>Consideration of Application</b>		
<p>The proposal seeks consent for demolishing the damaged section of the existing façade/windows and floor area along Ashburner Street, and replace them with like for like materials and finishes. Given the separation between the heritage items and the subject property, as well as the low profile of the development, there is considered to be no adverse impact upon the significance of the heritage items and the conservation area.</p> <p>Notwithstanding the above, it is requested that the two heritage listed Street Trees located in the road reserve of Ashburner street, outside 48-50 Darley Road, be protected at all times during construction works to ensure that the heritage items are not impacted as part of the works. A condition of consent will be imposed stating as such.</p> <p><b>Therefore Heritage raises no objections subject to a condition.</b></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? No            Has a Heritage Impact Statement been provided? No</p>			
<b>Further Comments</b>			
<p>COMPLETED BY: Oya Guner, Heritage Advisor</p> <p>DATE: 27 February 2020</p>			

External Referral Body	Comments		
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. A response was received by Council on 11 February 2020. A condition of consent has been placed to ensure that the development is carried out in compliance with all recommendations and requirements of this response.		

**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 residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

#### **SEPP (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted with the application (see Certificate No. A362753\_03, dated 12 December 2019).

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

#### **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. A letter response was received within the 21 day statutory period. Compliance with this response has been included as a condition of consent.

## 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:	11m	No change. As existing.	-	Yes
Floor Space Ratio	FSR: 0.75:1 (282.53m <sup>2</sup> )	No change. As existing.	-	Yes

### Compliance Assessment

Clause	Compliance with Requirements
2.7 Demolition requires development consent	Yes
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
5.10 Heritage conservation	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.12 Essential services	Yes
Schedule 5 Environmental heritage	Yes

### Detailed Assessment

#### 4.4 Floor space ratio

As discussed earlier in this report, the application does not seek a change to the existing floor area.

#### 5.10 Heritage conservation

The subject site is located within a heritage conservation area and is within proximity of a number of heritage items listed in Schedule 5 of Manly LEP 2013 including: C2 - Town Centre Heritage Conservation Area, Item I123 - Residential flat building - 17 Darley Road, Item I129 - One of a pair of semi-detached cottages - 42 Darley Road, and Item I79 - Street Trees - Ashburner Street.

In accordance with clause 5.10(4) of the Manly LEP 2013, the consent authority must consider the effect of the proposed development of the heritage significance of the item or area concerned prior to granting consent to the proposal. In this regard, the proposal has been considered by Council's Heritage Advisor who is satisfied that the proposal is acceptable subject to conditions. Detailed

commentary from Council's Heritage Advisor is provided in the 'Referrals' section of this report.

## Manly Development Control Plan

### Built Form Controls

Built Form Controls - Site Area: 376.7m <sup>2</sup>	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	South-Eastern Elevation: 6.7m	6.6m (No change. As existing.)	-	Yes
4.1.2.2 Number of Storeys	2	2	-	Yes
4.1.2.3 Roof Height	Height: 2.5m	2.3-3m (No change. As existing.)	-	No. However, as existing.
	Pitch: maximum 35 degrees	22 - 35 degrees	-	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line	0m, consistent with prevailing setback (No change. As existing.)	-	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	South-Eastern (Ashburner Street): Prevailing setback for secondary street frontage on corner allotment.	0m, consistent with prevailing setback (No change. As existing.)	-	Yes
4.1.4.4 Rear Setbacks	8m	2.6m to existing building	-	No. However, as existing.
		0m to existing garage		

**\*Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example:  $38/40 \times 100 = 95$  then  $100 - 95 = 5\%$  variation)

### 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
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.5.3 Ventilation	Yes	Yes
3.5.4 Energy Efficient Appliances and Demand Reduction and Efficient Lighting (non-residential buildings)	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.5.8 Water Sensitive Urban Design	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.1.1 General Character	Yes	Yes
5.1.2 The Corso	Yes	Yes
5.5 Road Widening and Realignment	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
Schedule 1 – Maps accompanying the DCP	Yes	Yes

### Detailed Assessment

#### **3.2 Heritage Considerations**

As highlighted by Council's Heritage Advisor, the proposal seeks to re-instate like for like materials and finishes, being the brickwork and windows in particular, to the damaged section of the façade facing Ashburner Street. The application is seen to demonstrate compliance with this clause, that requires using the original style of bricks and windows that is compatible with the building's architectural style/period.

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

As discussed earlier in this report, the application does not seek any change to the existing tiled roof.

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

The proposal seeks to maintain the existing setback along the south-eastern elevation facing Ashburner Street. The works relate to remedial repairs relating to the external façade, walls and windows along this elevation. The elevation facing Ashburner Street is considered as a secondary street frontage, and

as such, the setback requirements applicable for windows are not seen to be applicable in this particular instance.

### **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**

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$3,430 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$343,000.

### **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 DA2019/1533 for Partial demolition and reconstruction of existing facade and internal walls on land at Lot 1 DP 115867, 48 - 50 Darley Road, 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

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
A.01.1, Rev. A (Site Analysis Plan)	21 October 2019	A J Lewis
A.02.1, Rev. A (Ground Floor Plan, First Floor Plan)	21 October 2019	A J Lewis
A.01.2, Rev. A (Demolition Plan)	21 October 2019	A J Lewis
A.03.1, Rev. A (South East Elevation, North East Elevation, Building Section)	21 October 2019	A J Lewis

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Certificate, Ref. A362753_03	12 December 2019	A J Lewis

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:

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Northern Beaches Council Waste Management Plan	21 October 2019	Maincom Pty Ltd

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:

<b>Other Department,</b>	<b>EDMS Reference</b>	<b>Dated</b>

<b>Authority or Service</b>		
Ausgrid	Response Ausgrid Referral	11 February 2020

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

## FEES / CHARGES / CONTRIBUTIONS

### 5. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$3,430.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$342,999.89.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

### 6. Security Bond

A bond (determined from cost of works) of \$1,500 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](http://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. **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.

### 9. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

## CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

### 10. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)];
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

### 11. **Demolition Works - Asbestos**

Demolition works must be carried out in compliance with WorkCover Short Guide to Working with Asbestos Cement and Australian Standard AS 2601 2001 The Demolition of Structures.

The site must be provided with a sign containing the words DANGER ASBESTOS REMOVAL IN PROGRESS measuring not less than 400 mm x 300 mm and be erected in a prominent visible position on the site. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site and disposed to a lawful waste disposal facility.

All asbestos laden waste, including flat, corrugated or profiled asbestos cement sheets must be disposed of at a lawful waste disposal facility. Upon completion of tipping operations the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Adjoining property owners are to be given at least seven (7) days' notice in writing of the intention to disturb and remove asbestos from the development site.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.

### 12. **Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

### 13. **Protection of heritage listed street trees in the road reserve**

Two street trees, located in the road reserve of Ashburner Street, outside 48-50 Darley Road, Manly, are to be protected at all times during demolition and construction works on the site.

To ensure that the heritage listed Street Trees are not damaged as a result of the proposed works.

14. **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 Principal Certifying Authority.

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

15. **Tree Protection during work - No Works within 5m/calculated Tree Protection Zone (TPZ)**

The developer or contractor will take all measures to prevent damage to trees and root systems during site works and construction activities including provision of water, sewerage and stormwater drainage services. In particular, works, erection of structures, excavation or changes to soil levels within 5 metres of the trunks or the calculated TPZ of trees to be retained are not permitted, and the storage of spoil, building materials, soils or the driving or parking of any vehicle or machinery within 5 metres of the trunk or the calculated TPZ of a tree to be retained, is not permitted.

Council trees will require trunk protection in accordance with AS4970-2009 Protection of trees on construction sites.

Reason: To protect and retain trees/the natural environment proposed for retention.

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

16. **Fire Safety Matters**

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

## ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

17. **No Approval for Existing Works**

This consent does not regularise any works that have been previously undertaken to the building.

Reason: To ensure that this consent grants approval only for future works and is consistent with the proposal.

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

**Signed**



**Kent Bull, Planner**

The application is determined on 12/03/2020, under the delegated authority of:



**Matthew Edmonds, Manager Development Assessments**