

Delegated Authority Report

DA No.	300/2012
Site Address	18 Boyle Street Balgowlah
Proposal	Section 96(2) application to modify approved alterations and additions to the existing All Saints Anglican Church including extensions to the ground floor and first floor – involving new internal lift, new skylights, changes to approved roof, internal modifications, changes to windows and doors – Part 2.

<u>Application Lodged:</u>	9 May 2016
<u>Applicant:</u>	MacKenzie Architects International
<u>Owner:</u>	Anglican Church Property Trust Diocese of Sydney
<u>Estimated Cost:</u>	\$1,500,000 (original cost of works)
<u>Zoning:</u>	Manly Local Environmental Plan, 2013 – SP2 – Place of Public Worship
<u>Surrounding Development:</u>	Dwelling houses, residential flat buildings and duplexes
<u>Heritage:</u>	The site is located in the vicinity of 303-307 Sydney Road Balgowlah which are listed as items of the environmental heritage under Schedule 5 of the Manly Local Environmental Plan 2013.

SUMMARY:

1. ON 06 MARCH 2013, COUNCIL'S DAU APPROVED DEVELOPMENT APPLICATION NO. 300/2012 FOR ALTERATIONS AND ADDITIONS TO THE EXISTING ALL SAINTS ANGLICAN CHURCH INCLUDING EXTENSIONS TO THE GROUND FLOOR AND FIRST FLOOR.
2. THE CURRENT SECTION 96(2) APPLICATION IS FOR THE MODIFICATION OF DEVELOPMENT CONSENT NO. 300/2012 – INVOLVING NEW INTERNAL LIFT, NEW SKYLIGHTS, CHANGES TO APPROVED ROOF, INTERNAL MODIFICATIONS, CHANGES TO WINDOWS AND DOORS – PART 2.
3. THE APPLICATION WAS

RECOMMENDATION

That pursuant to Section 96(2) of the *Environmental Planning and Assessment Act 1979*, the proposed modification to Development Consent No. 300/2012 for alterations and additions to the existing All Saints Anglican Church including extensions to the ground floor and first floor – involving new internal lift, new skylights, changes to approved roof, internal modifications, changes to windows and doors (Part 2) at 18 Boyle Street Balgowlah be **Approved** subject to:

1. The original conditions of consent as approved by DAU on 6 March 2013.
2. As modified by the Section 96(2) application – Part 2 – Involving the modification of Condition No. DA1 (Documents relating to consent), and addition of Condition No. ANS03 (3MS01) and ANS04.

The following Condition No. DA1 is to be amended as per Section 96(2) – Part 2:

The development, except where modified by the conditions of this consent, is to be carried out in accordance with the following plans and documentation

Plans affixed with Council's stamp relating to Development Consent No. 300/2012

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
101 / Site/roof plan	5 December 2012	21 December 2012
102 / Ground floor	5 December 2012	21 December 2012
103 / First floor	5 December 2012	21 December 2012
201 / Elevations: North, west	5 December 2012	21 December 2012
202 / Elevations South, east	5 December 2012	21 December 2012
301 / Sections	5 December 2012	21 December 2012

Documentation affixed with Council's stamp relating to Development Consent No. 300/2012

- *Statement of Environmental Effects prepared by Garry Chapman dated 17 December 2012 and received by Council 21 December 2012.*

Except where amended by:

Plans affixed with Council's stamp relating to the Section 96(2) Application – Part 2:

Plan No. / Title	Issue/ Revision & Date	Date Received by Council
101 / Site/roof plan	Rev B / 09.03.2016	09.05.2016
102 / Plans: Ground floor	Rev B / 09.03.2016	09.05.2016
103 / Plans: First floor	Rev B / 09.03.2016	09.05.2016
201 / Elevations: North, west	Rev B / 09.03.2016	09.05.2016
202 / Elevations: South, east	Rev B / 09.03.2016	09.05.2016
301 / Sections: Sections	Rev B / 09.03.2016	09.05.2016

Documentation affixed with Council's stamp relating to the Section 96(2) Application – Part 2:

- ***Statement of Environmental Effects prepared by Chapman Planning Pty Ltd dated 5 May 2016 and received by Council on 9 May 2016.***
- ***Building Code of Australia Compliance Assessment Report prepared by Greenfield Certifiers Pty Ltd dated 5 February 2016 (Report No. 14/229) and received by Council on 9 May 2016.***
- ***Section 96 Access Appraisal Report prepared by Obvius Access Consultants dated 28 April 2016 and received by Council on 9 May 2016.***

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council

ANS01

The driveways and drop off area is to comply with the turning circles contained within Australian Standard AS 2890.1-2004. Plans are to be amended prior to the issue of Construction Certificate.

Reason: to ensure suitable turning circle and public safety.

ANS02

The two storey full length window on the eastern elevation is to be suitably frosted, sufficient to prevent direct overlooking into the adjoining properties' open space. Plans are to be amended prior to the issue of Construction Certificate.

Reason: to protect the visual privacy of the adjoining properties.

The following Condition No. ANS03 (3MS01) is to be added as per Section 96(2) – Part 2:

ANS03 (3MS01)

Works in connection with any Section 96 modification are not to be commenced/carried out until a new Construction Certificate is issued.

Reason: The Environmental Planning and Assessment Act 1979 requires a new updated Construction Certificate to cover any or all approved Section 96 modifications involving changes in the design of the development.

The following Condition No. ANS04 is to be added as per Section 96(2) – Part 2:

ANS04

The recommendations contained within the Section 96 Access Appraisal Report prepared by Obvius Access Consultants dated 28 April 2016 and received by Council on 9 May 2016 shall be fully complied with and compliance demonstrated to the Council/Accredited Certifier.

Reason: To ensure equitable access in accordance with the relevant regulations.

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

1 (2AP01)

Four (4) copies of architectural drawings consistent with the development consent and associated conditions are to be submitted to the Council/Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To comply with the Environmental Planning and Assessment Act 1979.

2 (2AP03)

Consent given to build in close proximity to the allotment boundary is in no way to be construed as permission to build on or encroach over the allotment boundary. Your attention is directed to the provisions of the Dividing Fences Act 1991 which gives certain rights to adjoining owners, including use of the common boundary. In the absence of the structure standing well clear of the common boundary, it is recommended you make yourself aware of your legal position which may involve a survey to identify the allotment boundary.

Reason: To advise developers of their responsibilities and to protect the interests of adjoining owners.

3 (2CD01)

Pursuant to Section 97 of the Local Government Act, 1993, Council requires prior to the issue of Construction Certificate, or commencement of any excavation and demolition works, payment of a Trust Fund Deposit of \$10,000. The Deposit is required as security against damage to Council property during works on the site. The applicant must bear the cost of all restoration works to Council's property damaged during the course of this development. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Note: Should Council property adjoining the site be defective e.g. cracked footpath, broken kerb etc., this should be reported in writing, or by photographic record, submitted to Council at least seven (7) days prior to the commencement of any work on site. This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicants interest for it to be as full and detailed as possible.

Where by Council is not the Principal Certifying Authority, refund of the trust fund deposit will also be dependent upon receipt of a final Occupation Certificate by the Principal Certifying Authority and infrastructure inspection by Council.

Reason: To ensure security against possible damage to Council property.

4 (2DS01)

A detailed stormwater management plan is to be prepared to fully comply with Council's Specification for On-site Stormwater Management 2003 and Specification for Stormwater Drainage 2003 and must be submitted to Council for approval prior to issue of the Construction Certificate. The stormwater management plan and designs are to be prepared by a suitably qualified engineer with experience in hydrology and hydraulics..

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that infrastructure reverting to Council's care and control is of an acceptable standard.

5 (2FR01)

A Fire Safety Schedule specifying the fire safety measures (both current and proposed) which should be implemented in the building premises must be submitted with the Construction Certificate application, in accordance with Part 9 Clause 168 of the Environmental Planning and Assessment Regulation 2000.

Note: A Construction Certificate cannot be issued until a Fire Safety Schedule is received.

Reason: Compliance with the Environmental Planning and Assessment Act 1979.

6 (2MS01)

Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, details including drawings and specifications must be submitted to Council accompanying the Construction Certificate, which provide adequate measures for erosion and sediment control. As a minimum, control techniques are to be in accordance with Manly Council Guidelines on Erosion and Sediment Control, or a suitable and effective alternative method. The Sediment Control Plan must incorporate and disclose:

- 1) all details of drainage to protect and drain the site during the construction processes,
- 2) all sediment control devices, barriers and the like,
- 3) sedimentation tanks, ponds or the like,
- 4) covering materials and methods, and
- 5) a schedule and programme of the sequence of the sediment and erosion control works or devices to be installed and maintained.

Details from an appropriately qualified person showing these design requirements have been met must be submitted with the Construction Certificate and approved by the Council/Accredited Certifier prior to issuing of the Construction Certificate.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

Internal Note: This condition is to be imposed in conjunction with 4MS04.

7 (2WM01)

Details of waste management facilities are to be submitted with the application for a Construction Certificate in accordance with the Manly Development Control Plan for Waste Minimisation and Management 2000.

Reason: To ensure appropriate management of waste.

8 (2WM02)

A Waste Management Plan is to be submitted with the application prior to a Construction Certificate being issued in accordance with the Manly Development Control Plan for Waste Minimisation and Management 2000.

The plan should detail the type and estimate the amount of demolition and construction waste and nominate how these materials will be sorted and dealt with. Weight dockets and receipts must be kept as evidence of approved methods of disposal and recycling.

All demolition and excess construction materials are to be recycled where ever practicable. It should include consideration of the facilities required for the ongoing operation of the premises' recycling and waste management services after occupation. A template is available from the Manly Council website.

Reason: To plan for waste minimisation, recycling of building waste and on-going waste management.

Internal Note: The requirement for a Waste Management Plan is included in the Department of Environment and Climate change (DECC) Waste Service Performance Improvement Payment Criteria (WSPIP).

CONDITIONS TO BE SATISFIED PRIOR TO ANY COMMENCEMENT

9 (3BM01)

The floor surfaces of bathrooms, shower rooms, laundries and WC compartments are to be of an approved impervious material properly graded and drained and waterproofed in accordance with Australian Standard AS 3740. Certification is to be provided to the Principal Certifying Authority from a licensed applicator prior to the fixing of any wall or floor tiles.

Reason: To prevent the penetration of dampness through walls and floors.

10 (3CD01)

Building work, demolition or excavation must not be carried out until a Construction Certificate has been issued.

Reason: To ensure compliance with statutory provisions.

11 (3CD02)

Demolition must be carried out by a registered demolition contractor. Documentary evidence of registration must be submitted to Council prior to the commencement of demolition work.

Reason: To ensure demolition is carried out in an appropriate manner that is non-disruptive to the locality and the public.

12 (3CD03)

An adequate security fence is to be erected around the perimeter of the site prior to commencement of any excavation or construction works, and this fence is to be maintained in a state of good repair and condition until completion of the building project.

Reason: To protect the public interest and safety.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

13 (4AP02)

A copy of all stamped approved drawings, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Reason: To ensure the form of the development undertaken is in accordance with the determination of Council, public information and to ensure ongoing compliance.

14 (4CD01)

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

- 1) All demolition is to be carried out in accordance with Australian Standard AS 2601-2001.
- 2) Demolition must be carried out by a registered demolition contractor.
- 3) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out.
- 4) No blasting is to be carried out at any time during construction of the building.
- 5) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.
- 6) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.
- 7) Any demolition and excess construction materials are to be recycled wherever practicable.
- 8) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.
- 9) All waste on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the Protection of the Environment Operations Act 1997. All excavated material should be removed from the site in an approved manner and be disposed of lawfully to a tip or other authorised disposal area.
- 10) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.
- 11) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.
- 12) Details as to the method and location of disposal of demolition materials (weight dockets, receipts, etc.) should be kept on site as evidence of approved methods of disposal or recycling.
- 13) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.
- 14) Public footways and roadways adjacent to the site must be maintained and cleared of obstructions during construction. No building materials, waste containers or skips may be stored on the road reserve or footpath without prior separate approval from Council, including payment of relevant fees.
- 15) Building operations such as brickcutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.

16) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.

17) Any work must not prohibit or divert any natural overland flow of water.

Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.

15 (4CD02)

In order to maintain the amenity of adjoining properties, audible site works must be restricted to between 7.00am and 6.00pm, Monday to Friday and 7.00am to 1.00pm Saturday. No site works can be undertaken on Sundays or public holidays.

Unless otherwise approved within a Construction Traffic Management Plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Reason: To prevent disturbance to the surrounding community.

16 (4CD03)

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 person or part of 20 persons employed at the site, by effecting either a permanent or temporary connection to the Sydney Water's sewerage system or by approved closets.

Reason: To maintain sanitary conditions on building sites.

17 (4CD07)

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW. Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence.

All removal, repair or disturbance of or to asbestos material must comply with the following:

- The Occupational Health and Safety Act 2000,
- The Occupational Health and Safety Regulation 2001,
- The Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (1998)],
- The Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)] <http://www.nohsc.gov.au/>, and
- The Workcover NSW Guidelines for Licensed Asbestos Removal Contractors.

Note: The Code of Practice and Guide referred to above are known collectively as the Worksafe Code of Practice and Guidance Notes on Asbestos. They are specifically referenced in the Occupational Health and Safety Regulation 2001 under Clause 259. Under the Occupational Health and Safety Regulation 2001, the Worksafe Code of Practice and Guidance Notes on Asbestos are the minimum standards for asbestos removal work. Council does not control or regulate the Worksafe Code of Practice and Guidance Notes on Asbestos. Those involved with work to asbestos should be made aware of the requirements by visiting [ww.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au) or one of Workcover NSW's offices for further advice.

Reason: To ensure the health of site workers and the public.

18 (4MS01)

Should you appoint Council as the Principal Certifying Authority (PCA) to undertake inspections during the course of construction, then the following inspection/certification are required:

- Footing inspection - trench and steel,,
- Framework inspection,
- Wet area moisture barrier,
- Final inspection.

The cost of these inspections by Council is \$1,160 (being \$290 per inspection inclusive of GST). Payment of the above amount is required prior to the first inspection. Inspection appointments can be made by contacting the Environmental Services Division on 9976 1414.

At least 24 hours notice should be given for a request for an inspection and submission of the relevant inspection card. Any additional inspection required as a result of incomplete works will incur a fee of \$160.

Reason: To ensure that the development is completed in accordance with the terms of the development consent and with the Building Code of Australia.

19 (4MS04)

The Sediment Control Plan is to be implemented from the commencement of works and maintained until completion of the development.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

Internal Note: This condition is to be imposed with 2MS02.

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

20 (5DS01)

Stormwater drainage from the proposed addition/extension must be disposed of to the existing drainage system. All work is to be carried out in accordance with Council standards and specifications for stormwater drainage. Work is to be completed prior to the issue of the Occupation Certificate.

Reason: To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure infrastructure reverting to Council's care and control is of an acceptable standard.

ONGOING CONDITIONS RELATING TO THE OPERATION OF THE PREMISES OR DEVELOPMENT

21 (6MS02)

No person shall use or occupy the building or alteration which is the subject of this approval without the prior issue of an Occupation Certificate.

Reason: Statutory requirement, Environmental Planning and Assessment Act 1979.

22 (6NL01)

Glare from internal lighting is not permitted to extend beyond the limits of the building authorised by this approval.

Reason: To ensure there is no glare from internal lighting to neighbouring properties and land.

23 (6WM03)

Waste bins used for commercial premises are to be left on public footpaths for the minimum time necessary for waste collection and then promptly removed. Lids should be closed to prevent littering.
Reason: To ensure waste and bins are promptly removed from public places following collection; to limit obstruction of footpaths or roads; and to minimise public amenity impacts.

24 (6WM04)

All non-recyclable waste from commercial premises must be presented for collection in a lidded receptacle. Waste receptacles are not to be stored in public spaces such as footpaths.
Reason: Public amenity and litter minimisation.

25 (6WM05)

No waste generated on site from any commercial operation is to be placed in public place bins. Commercial operators must maintain their commercial waste bins in an organised, clean and sanitary condition, preventing potential for litter from overflowing bins.
Reason: To communicate policy regarding illegal trade waste dumping in public bins; and maintenance of trade waste bins.

26 (6WM08)

This commercial premises should investigate opportunities to compost food waste wherever practicable and recycle commonly recycled (non-putrescible) items such as paper and cardboard, steel and aluminium cans and recyclable plastic containers.
Reason: To promote waste minimisation in accordance with Manly Council's waste policies, the Waste Avoidance and Resource Recovery Act 2001 and the Manly Development Control Plan for Waste Minimisation and Management 2000.

Introduction

The subject site is commonly known as 18 Boyle Street Manly and legally described as lots A & B within DP 347673. The site has an area of 1,538m² and is regular in shape other than for the provision of a 4.5m corner splay. The site has a width facing Boyle Street of 46.785m. The corner splay has a length of 6.475m and a width facing Sydney Road of 25.605m.

The site has an eastern side boundary length of 51.3m and western side boundary length of 30.175m. The site is developed with a church (All Saints Anglican Church), two storey rectory and two story church hall. The surrounding area is characterised by dwelling houses, residential flat buildings and duplexes.

Property burdens and constraints

There are no burdens or constraints that would preclude the proposed development.

Description of the proposed development

This section 96(2) application involves the following amendments to Development Consent No. 300/2012:

Ground Floor:

- Deletion of north-west approved addition to the main hall
- Amendment to the floor level of hall 1. Existing floor level of the main hall to remain.
- Deletion of storage and additional bathroom on eastern elevation and reconfiguration of bathroom layout
- Installation of new fire exit doors from main hall
- Installation of new stair access to upper level and choir niche in main hall

- Internal modifications – location of central partition and storage in hall 1 and office configuration
- Installation of new lift

First Floor:

- Deletion of media room and storage rooms at the north-east corner of the existing building
- Reduction in size of mezzanine floor over foyer and removal of second door access to hall 2
- Internal modifications to mezzanine layout
- Removal of kitchenette and partition
- Reduction in size of office area in hall 2
- Relocation of storage area

External works:

- Change in window locations
- Change in foyer roof from glass to colorbond
- Alteration to skylight position on roof
- New fire egress doors from main hall and pathways
- Change from sandstone and painted render to brickwork and render.

Applicant's supporting statement

The applicant has submitted a *Statement of Environmental Effects prepared* by Chapman Planning Pty Ltd dated 5 May 2016 and received by Council on 9 May 2016, in support of the application.

Engineers Comments

Council's Engineer has commented on this Section 96(2) application as follows:

"No further conditions. Previous conditions apply".

Building Comments

Council's Building Surveyor offered no objections to this Section 96(2) application, subject to the imposition of Condition No. 3MS01.

Waste Comments

Council's Waste Officer has commented on this Section 96(2) application as follows:

"No further conditions."

Planning Comments

Environmental Planning & Assessment Act 1979 – Section 79(C)(1)

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

- (a) ***the provisions of:***
- (i) ***any environmental planning instrument, and***

Manly Local Environmental Plan 2013

The subject site is located in within the SP2 Zone – Place of Public Worship under MLEP 2013 (as amended). The proposed development involving modifications to approved alterations and additions to an existing church are permissible with consent. The modifications maintains consistency with the objectives of the Zone with the modifications retaining the existing site use, approved building envelope and footprint. The fenestration changes will not give rise to any adverse visual impact on the streetscape.

Part 4 Principal development standards

There is no FSR control for the site. An 8.5m height restriction applies to the site under Clause 4.3 of the MLEP 2013. The proposal maintains compliance with this development standard. The approved building height of 7.6m remains unchanged. It is noted that part of the existing church roof and spire exceed the height control, but no changes are proposed to this.

Part 5 Miscellaneous Provisions

The proposal is consistent with Clause 5.10 Heritage Conservation under MLEP 2013. Although the site is not a listed item, it is located in the vicinity of a group of houses being No. 303-307 Sydney Road, which are collectively listed as an item of local heritage significance under Schedule 5 of the MLEP 2013. The proposal is not considered to have any adverse impact on the significance of these items.

Part 6 Local Provisions

The provisions of the MLEP 2013 (as amended) have been referred to as part of the assessment:

6.	Local Provisions	Applies	Complies	Comments
6.1	Acid Sulphate Soils	Yes	Yes	Class 5. The proposal is consistent with this clause.
6.4	Stormwater Management	Yes	Yes	The proposal is accompanied by stormwater plans.

79C(1)(a)(ii) - any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved), and

There is no applicable Draft Planning Instrument.

79C(1)(a)(iii) - any development control plan, and

Manly Development Control Plan 2013 (Amendment 7):

The application involves modifications to approved alterations and additions to a church, which renders the majority of the DCP controls irrelevant. The relevant controls are addressed below

Part 3 General Principles of Development

Clause	Issues	Consistent with controls
3.1	Streetscape and Townscapes	✓
3.2	Heritage Considerations	✓
3.5	Sustainability	✓

3.6	Accessibility	✓
3.7	Stormwater Management	✓
3.8	Waste Management	✓

Part 4 - Development Controls

There are no objections from a planning perspective to the modifications sought as part of this Section 96(2) application.

The proposed modifications to the approved development will not alter the approved height of 7.6m.

As regards fenestration changes, there are no objections to these having regard to the approved development, privacy impacts and impact on adjacent group of heritage listed homes.

The modifications requested will improve access and functionality of the church and hall. No additional seating is proposed. The provision of a new internal lift will provide equitable access across the building. It is recommended the recommendations contained within the submitted Access Report be fully complied with to ensure compliance with the relevant standards. A condition to this effect is included within the Recommendation.

As regards parking, the proposed modifications do not increase the number of seats or congregation. It is noted that the existing church does not have on-site car parking nor can it be accommodation on the site.

The subject site is not listed as a heritage item or located within a conservation area. The proposal will not detract from the significance of the listed items in the vicinity and is consistent with the existing streetscape setting.

Part 5 - Special Character Areas and Sites

Special Character Areas and Sites	Not Applicable
Conservation Area	✓
Foreshore Scenic Protection Area	✓
Threatened Species and Critical Habitat	✓
Flood Control Lots	✓
Riparian Land and Watercourses	✓
Road Widening	✓
Gurney Crescent and Clavering Road, Seaforth	✓

Comment:

Not applicable.

SECTION 79C Environmental Planning and Assessment Act 1979

Section 79C (1) (a)(i) – Have you considered all relevant provisions of any relevant environmental planning instrument?	Yes
Section 79C (1) (a)(ii) – Have you considered all relevant provisions of any provisions of any draft environmental planning instrument?	N/A

Section 79C (1) (a)(iii) – Have you considered all relevant provisions of any provisions of any development control plan?	Yes
Section 79C (1) (a)(iiia) - Have you considered all relevant provisions of any Planning Agreement or Draft Planning Agreement?	N/A
Section 79C (1) (a)(iv) - Have you considered all relevant provisions of the Regulations?	Yes
Section 79C(1)(a)(v) – any coastal zone management plan (within the meaning of the <i>Coastal Protection Act 1979</i>)?	N/A
Section 79C (1) (b) – Are the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality acceptable?	Yes
Section 79C (1) (c) – Is the site suitable for the development?	Yes
Section 79C (1) (d) – Have you considered any submissions made in accordance with the EP&A Act 1979 or EP&A Regulations 2000?	N/A
Section 79C (1) (e) – Is the proposal in the public interest?	Yes

Section 96 (2) of the Environmental Planning and Assessment Act 1979

(2) Other modifications

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and
- (c) it has notified the application in accordance with:
 - (i) the regulations, if the regulations so require, or
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and
- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1) and (1A) do not apply to such a modification.

With regard to the above it is considered that the proposed modifications to the original consent will result in substantially the same development for which consent was originally granted. The modifications requested were notified in accordance with Council's Manly DCP 2013 (Amendment 7) and no submissions were received. All matters relating to the proposed modifications have been considered. On balance, the modification application is considered to be satisfactory for approval, subject to conditions.

CONCLUSION:

The application has been assessed having regard to Section 79C of the Environmental Planning & Assessment Act 1979, Manly Local Environmental Plan 2013 and the Manly Development Control Plan 2013 (Amendment 7) and is considered to be satisfactory for **approval**, subject to conditions.

This report is referred to the Deputy General Manager for determination in accordance with the delegations granted by the General Manager.