





INNER WEST

DEVELOPMENT ASSESSMENT REPORT

Application No.	DA/2021/1353
Address	64 Premier Street MARRICKVILLE NSW 2204
Proposal	Demolition of a single enclosed garage and construction of basement parking level, including changes to boundary fences.
Date of Lodgement	29 December 2021
Applicant	George Matsos
Owner	Mr Constantinoes Houllis Ms Eva Fanos
Number of Submissions	Two (2)
Value of works	\$99,000.00
Reason for determination at Planning Panel	Sensitive Development – Demolition of a heritage item
Main Issues	Impact on heritage item
Recommendation	Refusal
Attachment A	Reasons for refusal
Attachment B	Plans of proposed development
Attachment C	Statement of Heritage Significance
Attachment D	Conditions of consent if approved



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

Note: Due to scale of map, not all objectors could be shown.

1. Executive Summary

This report is an assessment of the application submitted to Council for demolition of a single enclosed garage and construction of basement parking level, including changes to boundary fences. at 64 Premier Street Marrickville.

The application was notified to surrounding properties and 2 submissions were received in response to the initial notification.

The main issues that have arisen from the application include:

- The CDC which approved the dwelling house is potentially invalid as the site was identified as a draft heritage item at the date of issue.
- The subject site is listed as being within the Warren Archaeological Site Item No A17-5, under the MLEP 2011. No documentation or assessment on the archaeological significance of the area has been provided and Council is unable to fully understand or determine the impact of the development on the heritage item.

The non-compliances are not acceptable and therefore the application is recommended for refusal.

2. Proposal

The application seeks development consent for the construction of a basement and amendment to an approved CDC.

Specifically the following works/uses are proposed:

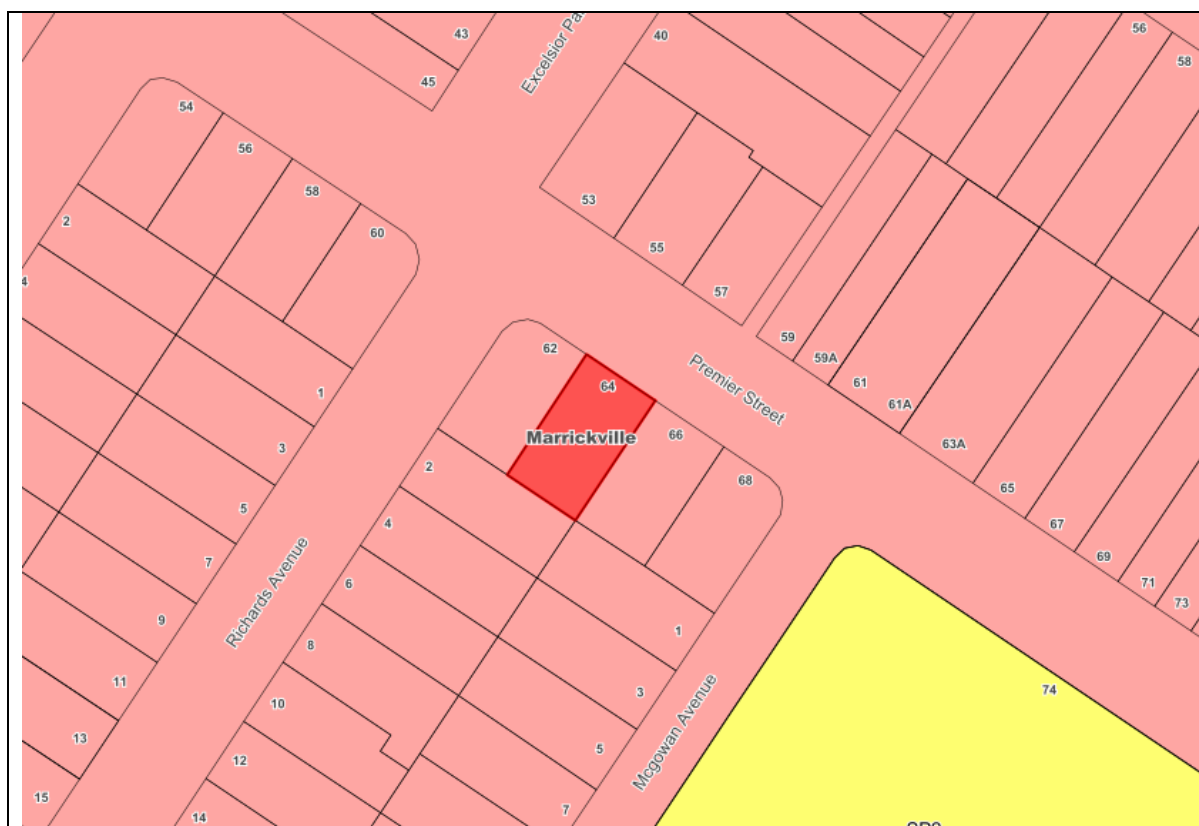
- Demolition of the pre-existing garage;
- Construction of a new 2-car basement garage, basement storage room, pool plant room, air-conditioning plant room, garbage room;
- Construction of a new boundary fence;
- Amendments to the existing north boundary stone fence utilising salvaged stone blockwork;
- New driveway and crossing including removal of existing driveway and kerb crossing;
- Extension of internal stair from the ground floor to the garage level;
- Extension of approved lounge (northeast corner) at first floor level and deletion of roof to north (over ground floor).

3. Site Description

The subject site is located on the southern side of Premier Street, close to the intersection of Richard Avenue and Premier Street. The site area is approximately 549.2 sqm with a primary frontage to Premier Street of 14.3m. An existing single storey dwelling is located on the site.

Surrounding land uses are predominantly single and two storey dwelling houses.

The subject site is listed as being within the Warren Archaeological Site Item No A17-5. MLEP 2011 Archaeological sites are considered to be heritage items as defined under MLEP 2011 (see assessment section below for details).



Site Zoning R2 Low Density Residential – Site identified by red box

4. Background

4(a) Site history

The following application outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

Subject Site

Application	Proposal	Decision & Date
CDCP/2020/0163	Demolition of existing dwelling, retention of existing garage and construction of a new dwelling, swimming pool and external works.	Issued - 8 July 2020 – Private Certifier
DA/2020/0843	Construction of a basement and amendment to an approved CDC	Refused – 21 December 2020

Surrounding properties

Not applicable

4(b) Application history

The following table outlines the relevant history of the subject application.

Date	Discussion / Letter / Additional Information
21 February 2022	Council Officers contacted the applicant and outlined concerns that the issued CDC (CDCP2020/0163) was invalid as the site is within an Archaeological site area – Item A-17-5 of the MLEP2011. This letter outlined that under Clause 1.17A and 1.18 of SEPP (Exempt and Complying Development Codes) 2008 CDC's cannot be granted if the land is identified as an item of Environmental Heritage or a heritage item or draft heritage item. The application was recommended to be withdrawn.
22 February 2022	Council Officers met with the applicant and owners to discuss the matters raised within the letter dated 21/02/2022. During this meeting it was recommended that the CDC approval be surrendered and that a DA be submitted for the construction of a new dwelling.
12 April 2022	Council Officers provided a Pre-DA letter to the applicant providing comments/position on a potential development application for a new dwelling house.
10 May 2022	Council Officers wrote to the applicant and requested the subject application be withdrawn.

To date the applicant has not provided any additional information or outlined a request to withdraw the current application in response to Council's letter dated 21 February 2022, as such the assessment of the application is based on the original information provided.

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

5(a) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*

The following provides further discussion of the relevant issues:

5(a)(i) *State Environmental Planning Policy (Resilience and Hazards) 2021*

Chapter 4 Remediation of land

Section 4.16 (1) of the SEPP requires the consent authority not consent to the carrying out of any development on land unless:

*“(a) it has considered whether the land is contaminated, and
 (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.”

In considering the above, there is no evidence of contamination on the site.

There is also no indication of uses listed in Table 1 of the contaminated land planning guidelines within Council's records. The land will be suitable for the proposed use as there is no indication of contamination.

A search of Councils records does not indicate any knowledge or incomplete knowledge of uses listed within Table 1 of the contaminated land planning guidelines. It would have been unlawful to carry out development of a type listed in within Table 1 of the contaminated land planning guidelines for the period in which there is no knowledge (or incomplete knowledge).

The application involves does not involve category 1 remediation under *SEPP (Resilience and Hazards) 2021*.

5(a)(ii) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate was submitted with the application and is satisfactory in this regard

5(a)(iii) Complying Development Approval for Dwelling House (CDCP/2020/0163)

A preliminary assessment of the development application by Council Officers identified that the site is located within the Warren Archaeological Site Item No A17-5, under MLEP 2011. Under MLEP 2011 a heritage item is defined as:

heritage item means a building, work, place, relic, tree, object or archaeological site the location and nature of which is described in Schedule 5.

Under the SEPP Exempt and Comply 2008 a heritage item is defined as:

heritage item means a building, work, archaeological site, tree, place or Aboriginal object identified as a heritage item in an environmental planning instrument.

As such for the purposes of assessment of the current development application the subject site is a heritage item. As outlined under clause 1.17A(1)(d) of SEPP Exempt and Comply 2008:

*to be complying development for the purposes of any environmental planning instrument the development **must not** –*

(d) be carried out on land that—

*(iii) is identified as an item of environmental heritage or a **heritage item** by an environmental planning instrument or on which is located an item that is so identified, or*

And clause 1.18(1) (c3) of SEPP Exempt and Comply 2008:

To be complying development for the purposes of this Policy, the development must—

(c3) **not** be carried out on land that comprises, or on which there is, a **draft heritage item**, and

Clause 1.5 of the SEPP Exempt and Complying defines a draft heritage item as:

draft heritage item means a building, work, archaeological site, tree, place or aboriginal object identified as a heritage item in a local environmental plan that has been subject to community consultation, other than an item that was consulted on before 1 March 2006, but has not been included in a plan before 27 February 2009.

As per Inner West Council Agenda dated Tuesday 26 March 2019 public exhibition of the archaeological site in question occurred between 4 April 2018 to 15 May 2018. A review of the complying development certificate has confirmed that the CDC was issued on 23 June 2020, after the date of exhibition and as such, the site was a draft heritage item in accordance with the above definitions.

Following this review Council Officers wrote to the applicant and outlined concerns that the issued CDC (CDCP/2020/0163) is potentially invalid, as it was issued once the subject property was formally identified as being a draft heritage item.

Concerns are raised that the issuing of the CDCP/2020/0163 was not in-accordance with the requirements of clause 1.18 of SEPP Exempt and Comply 2008 and that therefore the CDC consent (the consent the current development application relies upon for permissibility) is invalid.

5(a)(iv) Marrickville Local Environment Plan 2011 (MLEP 2011)

The application was assessed against the following relevant clauses of the *Marrickville Local Environmental Plan 2011*:

- Clause 1.2 - Aims of the Plan
- Clause 2.3 - Zone objectives and Land Use Table
- Clause 2.7 - Demolition
- Clause 4.3 - Height of buildings
- Clause 4.4 - Floor space ratio
- Clause 4.5 - Calculation of floor space ratio and site area
- Clause 4.6 - Exceptions to development standards
- Clause 5.4 - Controls relating to miscellaneous permissible uses
- Clause 5.7 - Development below mean high water mark
- Clause 5.10 - Heritage Conservation
- Clause 6.1- Earthworks
- Clause 6.4 - Terrestrial biodiversity
- Clause 6.5 - Development in areas subject to aircraft noise

The following table provides an assessment of the application against the development standards:

Standard	Proposal	Non-compliance	Complies
Height of Building Maximum permissible: 9.5m	No change to CDC approval.	No changed to CDC approval	No changed to CDC approval
Floor Space Ratio Maximum permissible: 0.5:1 or 275 sqm	0.44:1 or 244 sqm (nb proposed basement does not constitute GFA)	N/A	Yes

(i) Clause 1.2- Aims of the plan

The current proposal has been reviewed by Council Officers and is inconsistent with clause 1.2 (2)(g). This clause requires development to identify and conserve the environmental and cultural heritage of Marrickville. The current proposal does not provide any analysis on the archaeological heritage of the site and has not demonstrated that the proposed works would not remove or disturb the heritage item. The proposal in its current form fails to protect the heritage of Marrickville and is unable to be supported by Council.

(ii) Clause 2.3 - Land Use Table and Zone Objectives

The site is zoned R2 – Low Density Residential under the *Marrickville Local Environmental Plan 2011 (MLEP)*. The *MLEP 2011* defines the development as:

car park - means a building or place primarily used for the purpose of parking motor vehicles, including any manoeuvring space and access thereto, whether operated for gain or not.

The development is not permitted with consent within the land use table. The development is not consistent with the objectives of the R2 – Low Density zone.

The applicant’s argument of the basement structure being ancillary to the dwelling house (approved under CDC) is not supported by Council, as the CDC for the dwelling house may be invalid. In this instance the proposed basement structure (sought by the current application), could act independently from the approved CDC dwelling (should it be determined to be invalid) and is not reliant on the dwelling house being constructed.

The proposed use is therefore not considered to be ancillary to a dwelling and instead falls under a separate definition of ‘car park’, which is prohibited under the R2 – Low Density Zoning.

Furthermore previous Land and Environment Court Appeals quoted by the applicant as a means to support the proposed basement and demonstrate previous examples of court rulings regarding CDC and DA combinations, do not capture the current case where a structure could be utilised independently from the CDC approval, and where the CDC may be invalid with matters quoted outlining examples where the subsequent DA approval is reliant on the CDC

approval being constructed first and could not be undertaken without the CDC works first occurring.

The application is therefore recommended for refusal on the basis that the proposed basement is a car parking structure and is not permissible within the zone.

(iii) 5.10 Heritage Conservation

The subject site is listed as a being within the Warren Archaeological Site Item No A17-5, under the MLEP 2011. This Area is identified as being of Archaeological Significance as in 1856 Thomas Hold, first Colonial Treasurer in the NSW Parliament constructed a Gothic castle of 30 rooms within the locality. This castle was demolished in 1919, however the locality is considered to potentially contain archaeological artifacts. The current development application has been reviewed by Council's Heritage Advisor and The Heritage Council of NSW who outlined that there is currently in-sufficient information to decide on the proposal's potential archaeological impacts or potential for finds. Council's Heritage Advisor has outlined that a detailed an archaeological assessment must be prepared in accordance with the Guidelines published by the Heritage Council of NSW. This is in accordance with the recommendation on the state heritage inventory which recommends:

A detailed history of the site should be prepared to identify areas of particular sensitivity. Archaeological relics are covered by Div. 9 of the Heritage Act, 1977.

At this time no documentation or assessment on the archaeological significance of the area has been provided and Council is unable to fully understand or determine the impact of the development on the heritage item. The current application has failed to satisfactorily consider the impact of the proposed development on the heritage significance of the area in accordance with clause 5.10(4) of the MLEP 2011 and is therefore recommended for refusal.

5(b) Draft Environmental Planning Instruments

The application has been assessed against the relevant Draft Environmental Planning Instruments listed below:

Draft Environmental Planning Instruments	Compliance
Draft State Environmental Planning Policy (Environment) 2018	Yes
Draft State Environmental Planning Policy (Remediation of Land) 2018	Yes
Draft State Environmental Planning Policy (Environment) 2017	Yes

5(c) Draft Inner West Local Environmental Plan 2020 (Draft IWLEP 2020)

The Draft IWLEP 2020 was placed on public exhibition commencing on 16 March 2020 and accordingly is a matter for consideration in the assessment of the application under *Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979.*

The amended provisions contained in the Draft IWLEP 2020 are relevant to the assessment of the application. Accordingly, the development is not considered acceptable having regard to the provisions of the Draft IWLEP 2020. The current application does not protect or understand the heritage significance of the local area and is likely to result in a loss of heritage fabric. The proposal is inconsistent with the provisions clauses 1.2(h) and 5.10 of the Draft IWLEP 2020 and is therefore recommended for refusal.

5(d) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Marrickville Development Control Plan 2011.

MDCP 2011 Part of MDCP 2011	Compliance
Part 2.1 – Urban Design	Yes
Part 2.3 – Site and Context Analysis	Yes
Part 2.5 – Equity of Access and Mobility	Yes
Part 2.6 – Acoustic and Visual Privacy	Yes
Part 2.7 – Solar Access and Overshadowing	Yes
Part 2.10 – Parking	No – see discussion below
Part 2.25 – Stormwater Management	Yes
Part 4.1 – Low Density Residential Development	Yes
Part 8 – Heritage	No – see discussion above
Part 9 – Strategic Context	Yes

The following provides discussion of the relevant issues:

Car parking

The proposed basement and associated carparking area have been reviewed by Council's Development engineers who have advised that the current arrangement is non-compliant with the Australian Standards. The current proposal has not been designed to ensure adequate sightline distance to traffic on Premier Street or sightline distance to pedestrians also on Premier Street. The current proposal is non-compliant with Clause 3.2.4 - AS/NZS 2890.1:2004 and Figure 3.3 (Minimum sight light lines for pedestrian safety) - AS/NZS 2890.1:2004, resulting in community safety concerns. As such the application is recommended for refusal.

5(e) The Likely Impacts

The assessment of the Development Application demonstrates that the proposal will have an adverse impact on the locality in the following way:

Permissibility

Concern is raised regarding the validity of the CDC that has been issued and the resulting use as a car park is prohibited within the zone and likely to result in amenity impacts to neighbours.

Heritage Impact

The current proposal will impact the heritage significance of the locality and result in the disturbance/loss of archaeological relics significant to the history of the Inner West.

Community Safety

The current proposal is non-compliant with Clause 3.2.4 - AS/NZS 2890.1:2004 and Figure 3.3 (Minimum sight light lines for pedestrian safety) - AS/NZS 2890.1:2004, resulting in community safety concerns.

5(f) The suitability of the site for the development

It is considered that the proposal will have an adverse impact on the adjoining properties and therefore it is considered that the site is unsuitable to accommodate the proposed development.

5(g) Any submissions

The application was notified in accordance with the Community Engagement Framework for a period of 14 days to surrounding properties. Two (2) submissions were received in response to the initial notification.

The submissions raised the following concerns which are discussed under the respective headings below:

Issue: Three storey appearance (bulk/scale and amenity impacts)

Comment: The current proposal is recommended for refusal based on the reasons outlined above. The proposal is not considered to be permissible with the zone.

Issue: Impacts from construction

Comment: The current application is recommended for refusal based on the reasons outlined above.

Issue: Inappropriate use of a CDC and DA (General misuse of planning process)

Comment: The current application is recommended for refusal based on the reasons outlined above.

5(h) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

The proposal is contrary to the public interest.

6 Referrals

6(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed in section 5 above.

- Development Engineering – The proposal has been reviewed by Council’s Development Engineers who outlined that the current basement is non-compliant with the Australian Standards for sightlines and is not supported.
- Heritage Advisor – The proposal has been reviewed by Council’s Heritage Advisor who outlined that there is insufficient information to enable an assessment of the potential impacts on the Archaeological Area.

6(b) External

The application was referred to the following external bodies and issues raised in those referrals have been discussed in section 5 above.

- Heritage Council of NSW - The proposal has been reviewed by the Heritage Council of NSW who outlined that there is insufficient information to enable an assessment of the potential impacts on the Archaeological Area.

7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions / 7.12 levies are not payable for the proposal, as the proposed cost of works is under \$100,000 and the application is recommended for refusal.

8. Conclusion

The proposal does not comply with the aims, objectives and design parameters contained in *Marrickville Local Environmental Plan 2011* and *Marrickville Development Control Plan 2011*.

The development would result in significant impacts on the amenity of the adjoining premises/properties and the streetscape and is not considered to be in the public interest.

The application is considered unsupportable and in view of the circumstances, refusal of the application is recommended.

9. Recommendation

- A. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, refuse Development Application No. DA/2021/1353 for the demolition of a single enclosed garage and construction of basement parking level, including changes to boundary fences at 64 Premier Street , Marrickville for the following reasons.

Attachment A – Reasons for Refusal

1. The proposal is a prohibited use under the land use table of the *Marrickville Local Environmental Plan 2011*, pursuant to Section 4.3 (a) of the Environmental Planning and Assessment Act 1979.
2. In accordance with Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the Marrickville Local Environmental Plan 2011, Clause 1.2 (2)(g) – Aims of Plan as the proposal does not identify and conserve the environmental cultural heritage of Marrickville.
3. In accordance with Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not comply with the Marrickville Local Environmental Plan 2011, Clause 5.10 – Heritage Conservation as follows;
 - a. The proposal does not conserve archaeological site as required by clause (1)(c).
 - b. The proposal has not demonstrated the impact of the proposed works on the heritage item.
4. In accordance with Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the proposed development would have adverse environmental impacts on both the natural and built environments, and social and economic impacts in the locality.
5. The application has failed to adequately demonstrate that the site is suitable for the development pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.
6. Pursuant to the provisions of Section 4.15(1)(d)(e) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposal would not be in the public interest.

Attachment C- Statement of Heritage Significance

State Heritage Inventory Report

Item Details

Name
The Warren Archaeological site

Other/Former Names

Address
Holt Crescent MARRICKVILLE NSW 2204

Local Govt Area
Inner West

Group Name

Item Classification

Item Type
Archaeological-Terrestrial

Item Group
Residential buildings (private)

Item Category
House

Statement Of Significance
Mansion associated with Thomas Holt, former Colonial Treasurer and merchant

Assessed Significance Type
State

Endorsed Significance
Local

Date Significance Updated
5/9/2001

Listings

Listing Name	Listing Date	Instrument Name	Instrument No.	Plan No.	Gazette Page	Gazette Number
Local Environmental Plan	12/0/2011	Marrickville Local Environmental Plan 2011	A-17-5			

Heritage Item ID

2030428

Source

Local Government

Location

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Document ID: 588389049.
Version: 1, Version Date: 18/05/2022

Records Retrieved: 2

Street No	Street Name	Suburb/Town/Postcode	Local Govt. Area	LALC	Parish	County	Electorate	Address Type
	Holt Crescent	MARRICKVILLE/NSW/2204	Inner West	Unknown			Unknown	Primary Address
	54-68 Premier Street, 2-22 Mansion Street, 1-18 Richards Avenue, Richards Avenue, 1-3 Holts Crescent, Holts Crescent, 1-21 McGowan Avenue, and 47A Thornley Street (Richardsons Lookout)	MARRICKVILLE/NSW/2204	Inner West	Unknown			Unknown	Primary Address

Description

Designer	Builder/Maker
Construction Year Start & End 1856	Circa NO
Physical Description No evidence of above ground remains	Period 1851 to 1900
Physical Condition	Updated 05/09/2001

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Version: 1, Version Date: 18/05/2022

Medium/high archaeological potential

Modifications And Dates

Further Comments

History

Historical Notes or Provenance

Built in 1856 for Thomas Holt, first Colonial Treasurer in the NSW Parliament. Holt formerly lived at Camden Villa (qv) before constructing this Gothic castle of 30 rooms. It was demolished in 1919. The Warren was built by Tomas Holt, wool merchant and politician, on an estate of 52.6 hectares, bounded by the Cooks River, Illawarra Road, Warren Road and Unwins Bridge Road. It was completed before 1864 and was designed along the lines of a German Castle. It was constructed of stone quarried from cliffs overlooking Cooks River. Holt built bathing sheds and a Turkish bath on Cooks River; 6 Burial Vaults were also hewn from solid rock on the edge of the river but were never used by the Holt family.. The Warren was purchased by the Carmelite nuns in 1886, used by the army as an artillery camp during World War 1, resumed by the Government and demolished in 1919

Updated

Historic Themes

National Theme	State Theme	Local Theme
Marking the phases of life	Social institutions	Unknown
Marking the phases of life	Social institutions	Unknown
Building settlements, towns and cities	Agriculture	Unknown
Building settlements, towns and cities	Agriculture	Unknown

Records Retrieved: 4

18/05/2022 03:56 PM 3 of 7

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Document Number: 56319049.
Version: 1, Version Date: 18/05/2022

Assessment

Criteria a) Historical Significance Associated with Thomas Holt and one of the grandest mansions constructed in the Municipality.	Include	Exclude
Criteria b) Historical Association Significance	Include	Exclude
Criteria c) Aesthetic/Technical Significance	Include	Exclude
Criteria d) Social/Cultural Significance	Include	Exclude
Criteria e) Research Potential As an archaeological site this item has the potential to provide information unobtainable from historic or other sources.	Include	Exclude
Criteria f) Rarity High	Include	Exclude
Criteria g) Representative High	Include	Exclude
Integrity/Intactness Further archaeological assessment necessary		Updated 05/09/2001

References

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References Records Retrieved: 6

Title	Author	Year	Link	Type
A Cooks Tour	Marrickville Council	1998		Written
A Cooks Tour	Marrickville Council	1998		Written
Victorian Villas of Marrickville/Newtown	Matheson, M.	1997		Written
Victorian Villas of Marrickville/Newtown	Matheson, M.	1997		Written
Marrickville: Rural Outpost to Inner City. Hale & Iremonger.	Cashman, R. & Meader, C.	1990		Written
Marrickville: Rural Outpost to Inner City. Hale & Iremonger.	Cashman, R. & Meader, C.	1990		Written

Heritage Studies Records Retrieved: 0

Title	Year	Item Number	Author	Inspected By	Guidelines Used
No Results Found					

Procedures / Workflows / Notes Records Retrieved: 0

Application ID / Procedure ID	Section of Act	Description	Title	Officer	Date Received	Status	Outcome
No Results Found							

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Document ID: 56319049
Version: 1, Version Date: 18/05/2022

Management

Management

Records Retrieved: 0

Management Category	Management Name	Date Updated
No Results Found		

Management Summary

A detailed history of the site should be prepared to identify areas of particular sensitivity. Archaeological relics are covered by Div. 9 of the Heritage Act, 1977.



Caption: The Warren

Photographer: NULL

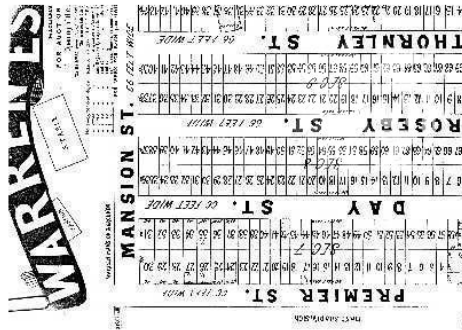
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Caption: Historic Map

Photographer: NULL

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Document ID: 566990149
Version: 1, Version Date: 18/05/2022

Attachment D – Conditions of Consent if Approved

CONDITIONS OF CONSENT

DOCUMENTS RELATED TO THE CONSENT

1. Documents related to the consent

The development must be carried out in accordance with plans and documents listed below:

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by
CD.001 Rev f	Site Plan/ Roof Plan	14/12/2021	Architectural Projects
CD.201 Rev F	North and East Elevations	14/12/2021	Architectural Projects
CD.301 Rev F	Sections	14/12/2021	Architectural Projects
CD.302 Rev F	Sections	14/12/2021	Architectural Projects
CD.402 Rev B	Driveway Details	14/12/2021	Architectural Projects
CD1.01 Rev F	Basement Floor Plan	14/12/2021	Architectural Projects
CD 1.02 Rev F	Ground Floor Plan	14/12/2021	Architectural Projects
CD 1.03 Rev F	First Floor Plan	14/12/2021	Architectural Projects

As amended by the conditions of consent.

FEES

2. Long Service Levy

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more.

3. Security Deposit - Standard

Prior to the commencement of demolition works or issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the

works and as surety for the proper completion of any road, footpath and drainage works required by this consent.

Security Deposit:	\$8,432.00
Inspection Fee:	\$241.50

Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees must not have an expiry date.

The inspection fee is required for the Council to determine the condition of the adjacent road reserve and footpath prior to and on completion of the works being carried out.

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

A request for release of the security may be made to the Council after all construction work has been completed and a final Occupation Certificate issued.

The amount nominated is only current for the financial year in which the initial consent was issued and is revised each financial year. The amount payable must be consistent with Council's Fees and Charges in force at the date of payment.

GENERAL CONDITIONS

4. Waste Management Plan

Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a Recycling and Waste Management Plan (RWMP) in accordance with the relevant Development Control Plan.

5. Erosion and Sediment Control

Prior to the issue of a commencement of any works (including any demolition works), the Certifying Authority must be provided with an erosion and sediment control plan and specification. Sediment control devices must be installed and maintained in proper working order to prevent sediment discharge from the construction site.

6. Standard Street Tree Protection

Prior to the commencement of any work, the Certifying Authority must be provided with details of the methods of protection of all street trees adjacent to the site during demolition and construction.

7. Works Outside the Property Boundary

This development consent does not authorise works outside the property boundaries on adjoining lands.

8. Excavation Permit or Exception to be Obtained

An excavation permit or exception under Section 139(4) of the Heritage Act 1977 is to be obtained from the NSW Heritage Branch. Application forms and more information can be obtained from the NSW Heritage Branch website or by contacting the NSW Heritage Branch. Council can require evidence that a permit or exception under the Act has been sought and obtained, as part of a development consent relating to this property.

PRIOR TO ANY DEMOLITION**9. Advising Neighbours Prior to Excavation**

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.

10. Dilapidation Report

Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of all the adjoining properties to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

11. Construction Fencing

Prior to the commencement of any works (including demolition), the site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property.

PRIOR TO CONSTRUCTION CERTIFICATE

12. Sydney Water – Tap In

Prior to the issue of a Construction Certificate, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

Note: Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 13 20 92

DURING DEMOLITION AND CONSTRUCTION

13. Construction Hours – Class 1 and 10

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work are only permitted between the hours of 7:00am to 5:00pm, Mondays to Saturdays (inclusive) with no works permitted on, Sundays or Public Holidays.

14. Stormwater Drainage System

Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, pits and pipelines discharged by gravity to the kerb and gutter of a public road.

Any existing component of the stormwater system that is to be retained, including any absorption trench or rubble pit drainage system, must be checked and certified by a Licensed Plumber or qualified practising Civil Engineer to be in good condition and operating satisfactorily.

If any component of the existing system is not in good condition and /or not operating satisfactorily and/or impacted by the works and/or legal rights for drainage do not exist, the drainage system must be upgraded to discharge legally by gravity to the kerb and gutter of a public road. Minor roof or paved areas that cannot reasonably be drained by gravity to a public road may be disposed on site subject to ensure no concentration of flows or nuisance to other properties.

15. Survey Prior to Footings

Upon excavation of the footings and before the pouring of the concrete, the Certifying Authority must be provided with a certificate of survey from a registered land surveyor to verify that the structure will not encroach over the allotment boundaries.

ADVISORY NOTES**Prescribed Conditions**

This consent is subject to the prescribed conditions of consent within clause 98-98E of the *Environmental Planning and Assessment Regulations 2000*.

Notification of commencement of works

At least 7 days before any demolition work commences:

- a. The Council must be notified of the following particulars:
 - i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
 - ii. the date the work is due to commence and the expected completion date; and
- b. A written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

Storage of Materials on public property

The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.

Toilet Facilities

The following facilities must be provided on the site:

- a. Toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees; and
- b. A garbage receptacle for food scraps and papers, with a tight fitting lid.

Facilities must be located so that they will not cause a nuisance.

Infrastructure

The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be undertaken before occupation of the site.

Other Approvals may be needed

Approvals under other acts and regulations may be required to carry out the development. It is the responsibility of property owners to ensure that they comply with all relevant legislation. Council takes no responsibility for informing applicants of any separate approvals required.

Failure to comply with conditions

Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.

Other works

Works or activities other than those approved by this Development Consent will require the submission of a new Development Application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Obtaining Relevant Certification

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):

- a. Application for any activity under that Act, including any erection of a hoarding;
- b. Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*;
- c. Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*;
- d. Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;
- e. Application for Strata Title Subdivision if strata title subdivision of the development is proposed;
- f. Development Application for demolition if demolition is not approved by this consent;
or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

Disability Discrimination Access to Premises Code

The *Disability Discrimination Act 1992* (Commonwealth) and the *Anti-Discrimination Act 1977* (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.

National Construction Code (Building Code of Australia)

A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by this consent must be carried out in accordance with the requirements of the National Construction Code.

Notification of commencement of works

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the PCA (not being the council) has given the Council written notice of the following information:

- a. In the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor; and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
- b. In the case of work to be done by an owner-builder:
 - i. The name of the owner-builder; and
 - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

Dividing Fences Act

The person acting on this consent must comply with the requirements of the *Dividing Fences Act 1991* in respect to the alterations and additions to the boundary fences.

Permits from Council under Other Acts

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street verandah over footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. A lease fee is payable for all occupations.

Noise

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997*.

Amenity Impacts General

The use of the premises must not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the *Protection of the Environment Operations Act 1997* and Regulations. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage other premises.

Construction of Vehicular Crossing

The vehicular crossing and/or footpath works are required to be constructed by your own contractor. You or your contractor must complete an application for *Construction of a Vehicular Crossing & Civil Works* form, lodge a bond for the works, pay the appropriate fees and provide evidence of adequate public liability insurance, prior to commencement of works.

Dial before you dig

Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.

Useful Contacts

BASIX Information	1300 650 908 weekdays 2:00pm - 5:00pm
	www.basix.nsw.gov.au
Department of Fair Trading	13 32 20
	www.fairtrading.nsw.gov.au
	Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Prior to You Dig	1100
	www.dialprior toyoudig.com.au
Landcom	9841 8660
	To purchase copies of Volume One of "Soils and Construction"
Long Service Corporation	Payments 131441
	www.lspc.nsw.gov.au
NSW Food Authority	1300 552 406
	www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro

		www.diysafe.nsw.gov.au
		Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	131 555	www.environment.nsw.gov.au
Sydney Water	13 20 92	www.sydneywater.com.au
Waste Service - SITA Environmental Solutions	1300 651 116	www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)		www.waterrating.gov.au
WorkCover Authority of NSW	13 10 50	www.workcover.nsw.gov.au
		Enquiries relating to work safety and asbestos removal and disposal.

Street Numbering

If any new street numbers or change to street numbers (this includes unit and shop numbers) are required, a separate application must be lodged with and approved by Council's GIS Team before being displayed.