

STATEMENT OF ENVIRONMENTAL EFFECTS

APPLICATION FOR 4.55 MODIFICATION (No 2) OF DEVELOPMENT CONSENT
DA2020/0706 :

AT

42 UPPER CLIFFORD AVENUE, FAIRLIGHT

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1. INTRODUCTION

This Statement of Environmental Effects (SEE) supports an application for Modification of Consent for Development Application DA2020/0706. The modification is sought in terms of Clause 4.55 of the Environmental Planning and Assessment Act 1979 No 203.

The original application was for alterations and additions to an existing dwelling on LOT A DP 313797 at 42 Upper Clifford Avenue, Fairlight. This included construction of a new double garage. The development consent for the works was granted on the basis that the works relating to the construction of the proposed garage was deleted from the application. The reason for deleting the garage was that the Council's development engineer was not prepared to support the proposed garage based on the information provided. In particular, the development engineer required the design to demonstrate that vehicles will not scrape when entering and exiting the parking and that there will be no conflict between the pedestrian door and the parking space on the east side of the garage.

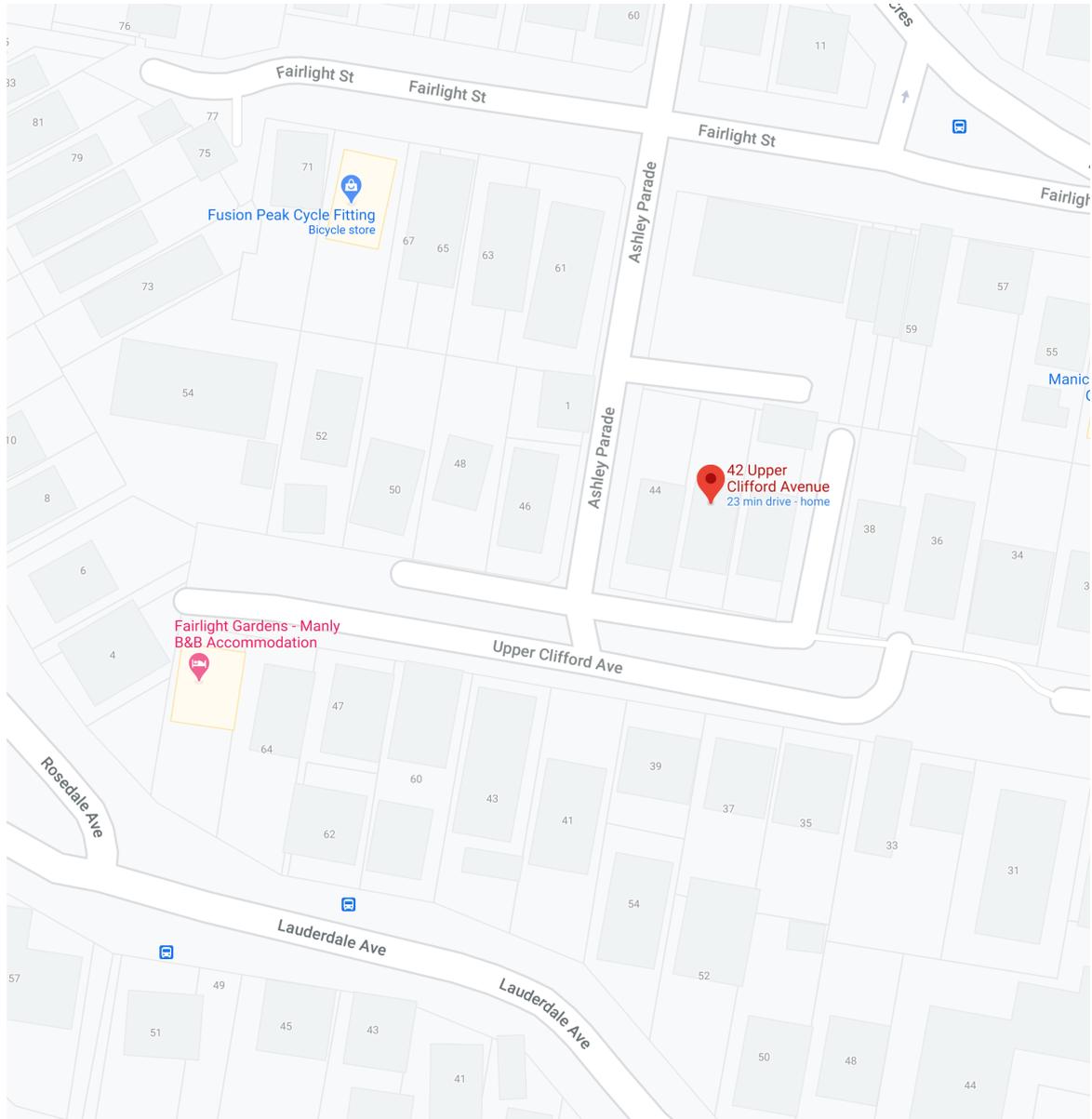
The modification seeks approval for a modified version of the originally proposed garage to address the concerns raised by the Council's development engineer.

The amended design addresses the development engineer's concerns by :

- Amendment of noted RL's on the drawings in accordance with an amended topographical survey which captured significantly more spot levels than the original survey, particularly in respect of the public footpath and the kerb.
- Splitting the proposed garage into two distinct spaces with a 1.0m high internal dividing wall to separate the two spaces
- Extending the length of the eastern half of the proposed garage to alter the levels of the parking space within the garage
- Amendment to the direction of egress through the pedestrian door

It must be noted that an earlier modification application was lodged and determined in respect of the works described as the garage. That modification application was determined as MOD2020/0603. That modification application was approved in respect of some window changes but no works relating to the garage were approved in the determination. After that determination, the Council's senior development engineer, Alex Kwok, met with Mitchell Wehbe from CAM Consulting. CAM Consulting is the engaged structural and civil engineering consultancy for the project. The engaged engineer has amended levels and gradients of the proposed garage and vehicle crossing in accordance with site discussion relating to agreed layback levels and an agreed 1 in 8 driveway gradient.

2. LOCALITY CONTEXT AND SITE ANALYSIS



Locality Map (source – Google Maps)

2.1 THE SITE

The site is located on the north side of Upper Clifford Avenue. The site is a rectangular residential block of 430.50m² in area. The site width is 11.67m along the street boundary. The length is 40.235m along the east and west boundaries. The existing development on the site is a single detached dwelling of two storeys plus a basement with a garage door that has a floor to ceiling height of 1.9m. The roof is a flat roof. The site slopes from the street up to the rear boundary. The rear boundary adjoins a small public park. Southerly harbour views are enjoyed from the subject site and the adjacent sites. The bulk and scale of the existing development is similar to surrounding development.

2.2 THE SURROUNDING LOCALITY

The surrounding neighbourhood is generally zoned R1 (general residential). There is a mixture of architectural styles in the immediate vicinity with no single style dominating the streetscape. Other development in the area includes single dwellings, duplexes and multi-residential buildings. Upper Clifford Avenue is not a through road. Upper Clifford Avenue is accessed from Ashley Parade and has four 'cul-de-sac' ends due to the topography of the locality. There are many instances in the street where developments have garages on nil front setbacks and where the garage doors are sloped to suit the gradient of the street and/or pedestrian footpath.

3. THE PROPOSED MODIFICATION

The application seeks approval for the following :

- Construction of a modified version of the new double garage that was proposed in the original DA.
- The proposed garage has been modified so that it has been split into two separate spaces to address concerns relating to interpretation of the requirements of AS2890.1:2004. In addition, the south east part of the garage has been extended in length to provide a more elevated parking platform on that side of the garage. The topographical survey has been amended to include significantly more spot levels on the footpath and the street (including the southern edge of the street) to allow for a more accurate assessment of the proposal relative to the existing circumstance. The engaged engineer has amended levels and gradients of the proposed garage and vehicle crossing in accordance with site discussion relating to agreed layback levels and an agreed 1 in 8 driveway gradient. Detailed sections relating to the proposed amended levels and grades are noted in the detailed sections (taken through the proposed garage and footpath) as prepared by CAM Consulting. The detailed engineering sections are referenced on the architectural drawings and supersede previously lodged detailed architectural sections with the same references of D1, D2, D3 and D4. Alex Kwok reviewed the amended levels and grades provided by CAM Consulting and confirmed via email on 17 June 2021 that the amended arrangement was acceptable to the Council's development engineers.

4. CLAUSE 4.55 of the ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The proposed modification is permissible in terms of Clause 4.55(1A). The proposal is of minimal environmental impact. There will be minimal environmental impact in terms of views, outlook, overshadowing, privacy, heritage or character of the area. The clause states that if development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), then the modification application is permissible. The proposed garage is substantially the same as was proposed in the original development application. The use of the development remains unchanged. There is no change to the height of the overall development. There is no change to the gross floor area since the area of required parking to achieve compliance in terms of parking provision is not included in the gross floor area calculation.

5. DETAILS OF THE PROPOSED MODIFICATION : IMPACTS AND MITIGATION

- There is an existing vehicle crossing providing vehicle access to the site from the street.
- The existing driveway is less than 5.4m in length (5.2m) so can't be acknowledged as a viable car parking space in terms of AS2890.1:2004.
- The existing space designated as a garage in the basement of the existing dwelling has a floor to ceiling height of only 1.9m. This makes this space impractical to use as a car parking space.
- The site is narrow and there is no option for car parking anywhere on the site except for the front setback.
- Many other developments in the street have similar constraints in terms of site width and steeply sloping access to the property.
- There are many examples of double garages on a nil front setback in the street.
- The existing street pattern for garages in the front setback is established and is unlikely to change in the foreseeable future as many developments are relatively new or have been recently refurbished.
- The proposed garage structure is consistent with the existing street pattern.
- An amended topographical survey has been prepared for this application. The amendments include significantly more spot levels along the pedestrian footpath, kerb and the road itself.
- These additional RL's have been included in the design and provide for a refinement of the original drawings with respect to the vehicle access to and from the proposed garage.
- The design has been modified so that the garage has been split into two separate spaces with a 1.0m high dividing wall between the two spaces.
- A step has been added between the two parking spaces.
- The single garage door has been modified so that there are two separate garage doors.
- A further modification was to extend the length of the western half of the garage by 0.824m. This matches the original proposed length for the east side of the garage. The length of each part of the garage is now proposed to be 0.824m longer than the minimum length of 5.4m for a parking space (as per AS2890.1:2004).
- The additional 0.824m allows for the access to the parking platform to continue onto the property at the same gradient as the existing vehicle crossing for the majority of the frontage width of the garages. This gradient is within the maximum gradient for residential driveways. The area between the boundary and the designated parking space within each garage has been considered as a residential driveway in terms of definitions in AS2890.1:2004. Each parking platform within the garage has a maximum fall lengthways of 1 in 20 and a maximum crossfall of 1 in 16 as per the requirements in AS2890.1:2004.
- This has been achieved without changing the general gradient of the public footpath for the extension to the vehicle crossing. The length of the extension of the vehicle crossing is 2.19m.
- The swept path analyses for the 85th percentile vehicle have been illustrated in both plan and section for each of the parking spaces. A sectional view through the left and right wheel path for each vehicle in each parking have been provided to illustrate that the 85th percentile vehicle will not scrape when entering or exiting the parking spaces.
- The pedestrian door at the north east corner of the proposed garage has been amended to avoid conflict with the eastern parking space.
- Cross sections have been included through the front and rear of the proposed garage to show the proposed crossfalls within the garage. These are compliant in terms of AS2890.1:2004. A street elevation has been included to illustrate that the existing

gradient of the footpath linked to the proposed garage remains substantially unchanged from the existing circumstance.

- After determination of MOD2020/0603, the Council's senior development engineer, Alex Kwok, met with Mitchell Wehbe from CAM Consulting. CAM Consulting is the engaged structural and civil engineering consultancy for the project. The engaged engineer has amended levels and gradients of the proposed garage and vehicle crossing in accordance with site discussion relating to agreed layback levels and an agreed 1 in 8 driveway gradient.

6. ZONING AND DEVELOPMENT CONTROLS

In addition to the NSW state and regional planning policies, the following planning instruments are of relevance to the development :

Manly Local Environment Plan 2013 (LEP)

Manly Development Control Plan 2013 (DCP)

7. STATE ENVIRONMENTAL PLANNING POLICY 55 : REMEDIATION OF LAND

Under Clause 7(1)(a) of State Environmental Planning Policy No. 55 Remediation of Land, consideration has been given as to whether the land is contaminated. The site has been used for residential purposes and there is no history to suggest that the site is contaminated. The application does not require further consideration under clause 7(1)(b) and (c) of SEPP.

8. STATE ENVIRONMENTAL PLANNING POLICY (BASIX 2004)

State Environmental Planning Policy (Building Sustainability Index: Basix (compliance is achieved. The previously approved Basix Certificate for the proposed DA and previous modification in respect of windows remains relevant. No changes have been made to that document but, to achieve procedural compliance, a new version of that BASIX Certificate has been issued for this modification application (Certificate No A380895_03). Note that the ONLY change to that BASIX Certificate is the date of issue.

9. RESPONSE TO PLANNING REQUIREMENTS OF MANLY LOCAL ENVIRONMENT PLAN 2013

9.1 AIMS OF THE PLAN (Clause 1.2)

The proposed modification is consistent with the applicable Aims of Manly LEP in that it

- is appropriate to its context
- is compatible with the desired future character of an area in terms of bulk, scale, density, landscaping and appearance
- does not adversely affect residential amenity in terms of visual and acoustic privacy, solar access and view sharing
- has regard to the principles of environmentally sustainable development

9.2 PRINCIPAL DEVELOPMENT STANDARDS: FLOOR SPACE RATIO (LEP 4.4)

According to Manly LEP 4.5 *floor space ratio* is defined as “the ratio of the gross floor area of all buildings within the site to the site area” (where *gross floor area* is “the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor ...”). Part (g) of the definition notes that “car parking to meet any requirements of the consent authority (including access to that car parking)” is excluded from the calculation of gross floor area.

The site has an allowable floor space ratio of 0.60:1. The site area is 430.50m² and therefore the maximum allowable gross floor area is 259.50m². The floor area of the proposed garage is not included in the FSR calculations as per the Manly LEP definition. The basement storage (with head height of 1.9m maximum) has also been excluded from the FSR calculation in alignment with the Manly LEP.

9.3 EARTHWORKS (LEP 6.2) AND LANDSLIDE RISK (6.8)

The site is not noted on the LEP Landslide Risk Map. There will be minimal excavation associated with the proposed work. The excavation includes the removal of some existing garden retaining walls, garden bed and garden paths/steps. The proposed excavation will not impact any surrounding development.

9.4 STORMWATER MANAGEMENT (LEP 6.4)

The proposed new work will drain into the existing stormwater management system which is compliant with the council’s policy for Manly Stormwater Management. There is minimal additional impervious area (14.09m²) proposed on the site. The existing stormwater drains directly to the street.

9.5 FORESHORE SCENIC PROTECTION AREA (LEP 6.9)

The site is noted on the Foreshore Scenic Protection Area Map. The objective of this clause is to protect visual aesthetic amenity and views to and from Sydney Harbour, the Pacific Ocean and the foreshore in Manly. Matters for consideration under this clause are :

- (a) *impacts that are of detriment to the visual amenity of harbour or coastal foreshore, including overshadowing of the foreshore and any loss of views from a public place to the foreshore,*
- (b) *measures to protect and improve scenic qualities of the coastline,*
- (c) *suitability of development given its type, location and design and its relationship with and impact on the foreshore,*
- (d) *measures to reduce the potential for conflict between land-based and water-based coastal activities.*

The height and bulk of the altered development will remain consistent with surrounding development. The development remains compliant in terms of requirements (in the DCP) for solar access to adjacent development. The proposed modifications will not result in any overshadowing of the foreshore. There will be no impact to any views of the foreshore from the public domain or from surrounding development.

9.6 NUMERIC COMPLIANCE TABLE

	STANDARD	EXISTING	PROPOSED
ZONING	R1	1 dwelling	No change
SITE AREA	Min 250m ²	430.50m ²	No change
HEIGHT OF BUILDING	8.5m	11.30m	No change
FLOOR SPACE RATIO	0.60 : 1	0.53 : 1	No change

		(previously approved GFA = 230.13m ²)	
ACID SULPHATE SOILS	No classification		
LANDSLIP RISK	No risk classification		

10. RESPONSE TO RELEVANT PLANNING REQUIREMENTS OF MANLY DEVELOPMENT CONTROL PLAN 2013

- 10.1 AIMS AND OBJECTIVES OF MDCP (DCP 1.7)
The proposed modifications meet the aims described in Clause 1.7 of the Manly DCP and the objectives noted in each relevant clause of the DCP. The aims are to:
- (a) *Ensure that development contributes to the quality of the natural and built environments*
 - (b) *Encourage development that contributes to the quality of our streetscapes and townscapes.*
 - (c) *Ensure that development is economically, socially and environmentally sustainable and to require the principles of ecologically sustainable development to be taken into consideration when determining DAs.*
 - (d) *Ensure future development has consideration for the needs of all members of the community.*
 - (e) *Ensure development positively responds to the qualities of the site and its context.*
 - (f) *Ensure development positively responds to the heritage and character of the surrounding area.*
- 10.2 GENERAL PRINCIPLES OF DEVELOPMENT : STREETSCAPE (DCP 3.1)
The proposed garage is consistent with the pattern of surrounding development.
- 10.3 GENERAL PRINCIPLES OF DEVELOPMENT : LANDSCAPING (DCP 3.3)
In alignment with the desired landscape character of the area, the proposed alterations and additions will not impact any significant mature trees. There will be a slight reduction in landscaping in the front setback but this will be offset by the previously approved on-structure planter along the south edge of the existing ground floor level south verandah.
- 10.4 GENERAL PRINCIPLES OF DEVELOPMENT : AMENITY - VIEWS, OVERSHADOWING, PRIVACY, NOISE (DCP 3.4)
The proposal achieves the objectives of this clause. The proposed garage will have no new impacts on the adjacent properties in respect of views, privacy, noise or overshadowing.
- 10.5 GENERAL PRINCIPLES OF DEVELOPMENT : SUSTAINABILITY (DCP 3.5)
The proposed modification achieves the applicable objectives of this clause. Waste is to be minimized in the new construction.
- 10.6 GENERAL PRINCIPLES OF DEVELOPMENT : ACCESSIBILITY (DCP 3.6)
The existing main pedestrian entry to the dwelling remains unchanged. The stairs and pathway from the street are to be re-aligned (as approved under DA 2020/0706) to provide for easier access to the dwelling from the street. The modification to include the proposed garage provides for easier and safer vehicle access to and from the site and provides for easier access from the parking area to the main pedestrian entrance.
- 10.7 GENERAL PRINCIPLES OF DEVELOPMENT : STORMWATER MANAGEMENT (DCP 3.7)

As noted above, the proposed new work will drain into the existing stormwater management system which is compliant with the council's policy for Manly Stormwater Management. There is a minimal increase of 14.09m² to impervious area proposed on the site.

- 10.8 GENERAL PRINCIPLES OF DEVELOPMENT : WASTE MANAGEMENT (DCP 3.8)
In the existing circumstance, the waste bins are stored in the driveway with no screening. The proposal provides for the waste bins to be stored in the storage space currently designated as a garage. That space will be directly linked to the proposed garage.
- 10.9 RESIDENTIAL DEVELOPMENT CONTROLS : FLOOR SPACE RATIO (DCP 4.1.3)
The existing and proposed FSR complies with the current development standard.
- 10.11 RESIDENTIAL DEVELOPMENT CONTROLS : SETBACKS (front, side, rear) (DCP 4.1.4)
The relevant objective to be met in relation to this control relates to maintaining and enhancing the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street. The proposed nil setback for the new garage is consistent with the existing street pattern. The difficult topography has resulted in most developments in the street having a double garage on a nil setback to the primary road frontage. The proposed extended width of the existing vehicle crossing acknowledges and maintains the existing gradient of the public footpath. The aesthetic of the garage, the pedestrian entry and the associated landscaping is consistent with the existing character of other development in the street.
- 10.12 RESIDENTIAL DEVELOPMENT CONTROLS : OPEN SPACE AND LANDSCAPING (DCP 4.1.5)
The site is categorized as OS3 for calculation of 'Open Space'. The development control calls for at least 55% of the site area to be 'Open Space' and at least 35% of the minimum area for open space to be 'Landscaped Area'. Since the landscaped area provision exceeds the minimum requirement and the calculable open space provision is consolidated in the rear part of the site, the objectives of the control are considered to be achieved. The proposed garage in the front setback has no impact on the open space and landscaping calculation.
- 10.13 RESIDENTIAL DEVELOPMENT CONTROLS : PARKING, VEHICULAR ACCESS AND LOADING (DCP 4.1.6)
The requirement is for two onsite parking spaces per dwelling. Technically there is no existing parking on the site. The proposed garage will address this non-compliance. The existing basement garage has a head height of only 1.9m and can therefore not be considered as a garage but only as storage space. It is not practical to use this space for car parking. The only parking available on site is the driveway in the front setback and the available length of the driveway is only 5.2m (less than the required minimum length of 5.4m for a parking space as per Australian Standard). Street parking is difficult in the street due to the topography of the street. The street is split between the north and south side with a wide sloping landscaped area between the two parts of the street. The street has four 'dead ends' – there is no through traffic. There is very little street parking. Many homes in the street have double garages with a nil setback to the street boundary. Many of these garages respond to the sloping road boundary and have sloping lower edges to the garage doors. The proposed double garage will have a nil setback to the street boundary and will have a sloped entrance to accommodate the existing grade of the paved pedestrian pathway between the boundary and the kerb. To accommodate the length required for compliant parking space dimensions, part of the existing ground floor south verandah

is to be demolished. The garage will be built to suit the existing RL's along the street boundary. The garage will have a flat roof and at the connection to the ground floor verandah, a planter will be built on top of the northern end of the garage roof to form the balustrade for the remaining verandah. The construction of the planter on part of the existing southern verandah was approved in DA2020/0706. Some window modifications were approved as per determination of MOD2020/0603.

Despite the proposed garage width exceeding the requirement of 4.1.6(c), it is considered that the proposal is consistent with the street pattern. Property widths are relatively narrow in the street. Topography is complicated so many developments in the street have garages that exceed the numerics of this control. The street pattern is clearly established and many developments are relatively new or have been recently upgraded. It is therefore reasonable to conclude that this type of development is going to remain as part of the street character for the foreseeable future.

The proposed increase to the width of the existing vehicle crossing is 2.190m. The gradient of the public concrete footpath is to be generally retained. [The engaged engineer has amended levels and gradients of the proposed garage and vehicle crossing in accordance with site discussion relating to agreed layback levels and an agreed 1 in 8 driveway gradient.](#)

11. MATTERS FOR CONSIDERATION UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

THE LIKELY IMPACTS OF THE DEVELOPMENT

These have been addressed above.

THE SUITABILITY OF THE SITE FOR DEVELOPMENT

The site is considered suitable for the proposed development. The existing development on the site is a single dwelling and the site is considered to be suitable for residential development. The zoning and all planning controls provide for such development as is proposed. All requisite services for residential development are available with existing connections to the site. The site has no history of contamination and there are no known hazards evident on the land.

THE PUBLIC INTEREST

The public interest is served by improving the functionality and amenity of the existing development on the site whilst ensuring that the additions do not result in an unreasonable loss of residential amenity to adjoining and nearby properties and public spaces.

12. SUMMARY

The merits of this application have been identified in this assessment under Sections 4.15 and 4.55 (1A) of the Environmental Planning and Assessment Act 1979, Manly LEP and Manly DCP.

The proposal is substantially the same as that which was originally lodged under DA2020/0706. The proposal has minimal environmental impacts.

The proposed modification represents a reasonable response to the constraints and opportunities of the site and to the relevant planning controls, in accordance with the

objectives of the *Environmental Planning and Assessment Act 1979*. The proposal achieves the aims and objectives of all relevant development standards and planning controls. The proposal will improve the amenity of the locality with respect to provision of onsite parking. It is considered that the proposal will improve the amenity for the occupants of this development, elevating the quality of the dwelling to align with the current trends in the local area, without adversely impacting surrounding properties and public spaces. The proposed upgrading of the development with the provision of onsite parking as a result of the construction of the proposed new garage will be consistent with the existing character of the local area.