

**STATEMENT OF ENVIRONMENTAL EFFECTS**

**FOR THE PROPOSED ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING AND  
CONSTRUCTION OF A DETACHED CARPORT**

**AT**

**46 BUNGALOE AVENUE, BALGOWLAH**

**FOR**

**STUART & CHARLOTTE MENOGUE**



**Prepared  
February 2025**

## **Table of Contents**

|     |  |    |
|-----|--|----|
| 1.0 | Introduction .....   | 3  |
| 2.0 | Property Description .....   | 3  |
| 3.0 | Site Description .....   | 4  |
| 4.0 | Surrounding Environment.....   | 9  |
| 5.0 | Proposed Development .....   | 10 |
| 6.0 | Zoning and Development Controls .....  | 12 |
| 6.1 | State Environmental Planning Policy (Resilience and Hazards).....  | 12 |
| 6.2 | State Environmental Planning Policy (Sustainable Buildings) 2022 .....   | 12 |
| 6.4 | Manly Local Environmental Plan 2013 .....  | 12 |
| 6.4 | Manly Development Control Plan 2013 .....  | 17 |
| 7.0 | Matters for Consideration under Section 4.15 of The Environmental Planning and Assessment Act, 1979 .....  | 29 |
| 7.1 | The provisions of any environmental planning instrument .....  | 29 |
| 7.2 | Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and ..... | 29 |
| 7.3 | Any development control plan.....  | 29 |
| 7.4 | Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and .....   | 30 |
| 7.5 | The regulations (to the extent that they prescribe matters for the purposes of this paragraph), .  | 30 |
| 7.6 | The likely impacts of that development, including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality. ....  | 30 |
| 7.7 | The suitability of the site for the development.....   | 30 |
| 7.8 | Any submissions made in accordance with this Act or the regulations .....  | 30 |
| 7.9 | The public interest.....   | 30 |
| 8.0 | Conclusion.....  | 31 |

## 1.0 Introduction

This Statement of Environmental Effects accompanies architectural details prepared on behalf of Stuart & Charlotte Menogue by Raymond and Williams Design & Construct, Drawings No's. DA\_000 – DA\_901 dated 15 January 2025 to detail the proposed alterations and additions to an existing dwelling and construction of a detached carport at **46 Bungaloe Avenue, Balgowlah**.

This Statement reviews the proposed development by assessing the relevant matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, (as amended) including:

- *The Environmental Planning and Assessment Act, 1979 as amended (EP&A Act)*
- *The Environmental Planning and Assessment Regulation 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Sustainable Buildings) 2022*
- *Manly Local Environmental Plan 2013 (MLEP 2013)*
- *Manly Development Control Plan 2013 (MDCP 2013)*

## 2.0 Property Description

The subject allotment is described as **46 Bungaloe Avenue, Balgowlah**, being Lot 21 within Deposited Plan 11430 and is zoned R2 Low Density Residential under the Manly Local Environmental Plan 2013.

The dwelling is not listed as a heritage item within Schedule 5 of the Manly Local Environmental Plan 2013, nor is it noted as being within a conservation area.

The site is identified on Council's DCP mapping as being within G4 on the Landslip Hazard Map.

No other hazards have been identified.

### 3.0 Site Description

The site is located on the eastern, lower side of Bungaloe Avenue.

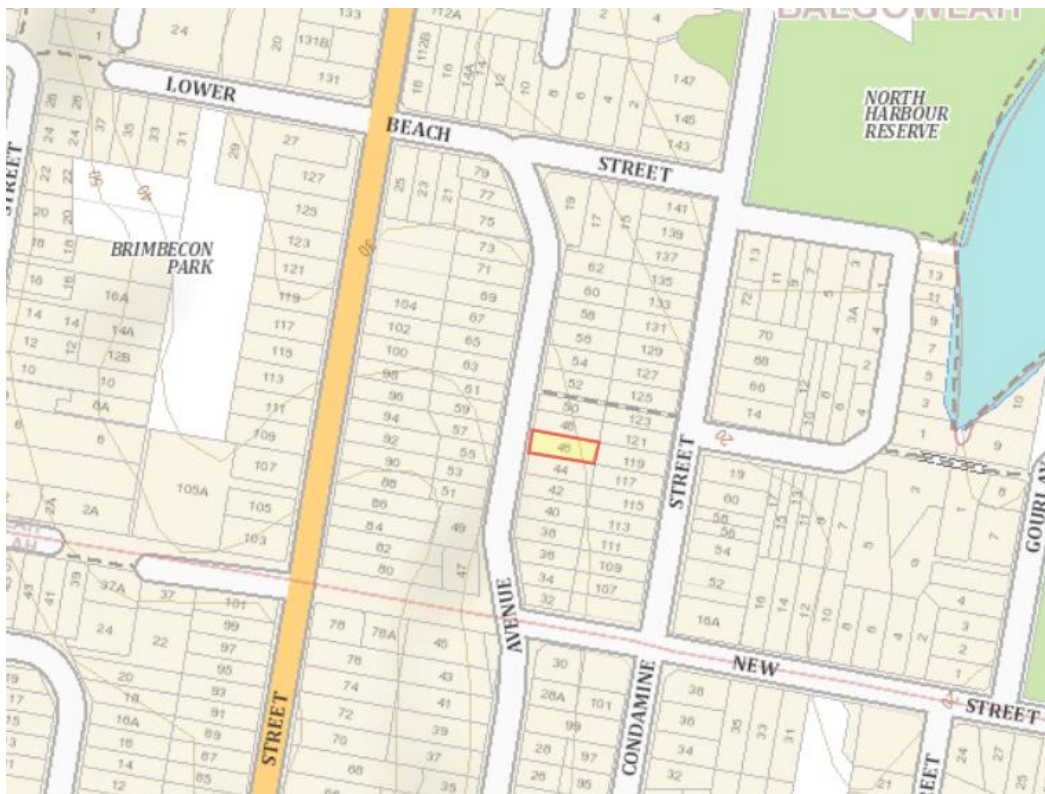
The site is largely regular in shape with a frontage to Bungaloe Avenue of width of 12.19m, northern and southern side boundaries measuring 37.53m, and an eastern rear boundary of 12.19m. The site has a total area of 461m<sup>2</sup> (by survey).

The site has a general fall from the front northern boundary towards the eastern rear boundary, with a total fall of approximately 3m over its length. Stormwater from the roofed areas is directed to an existing stormwater dispersal system at the rear of the site.

The site is currently developed with a two storey brick dwelling with a tile roof and a swimming pool and deck located at the rear. Car parking is available on the existing concrete strip hardstand driveway within the front setback along the north-western side boundary.

There are no significant listed or heritage trees existing on the site, with the recreational area of the property located towards the eastern area of the site.

The details of the site are included on the survey plan prepared by CMS Surveyors Pty Ltd, Reference No. 19920A Issue 3, dated 4 January 2021 (updated 31 July 2024 and 5 February 2025) which accompanies the DA submission.



**Fig 1: Location sketch**  
(Source: Six Maps)





**Fig 2: Views of the subject site, looking east from Bungaloe Street**



**Fig 3: View of the subject dwelling and location of the proposed carport over the existing open car stand, looking east**





**Fig 4: View of the existing open carport to the nearby property at No 52 Bungaloe Street, looking east**



**Fig 5: View of the existing open carport to the nearby property at No 54 Bungaloe Street, looking north-east**





**Fig 6: View of the rear elevation of the dwelling (noting existing first floor rear addition to be removed and replaced with open deck) looking south-west**



**Fig 7: View of the rear elevation of the dwelling (noting existing first floor rear addition to be removed and replaced with open deck) looking west**





**Fig 8: View of the existing rear yard and pool area, looking south-east**



**Fig 9: View of the existing rear yard and pool area, looking east**

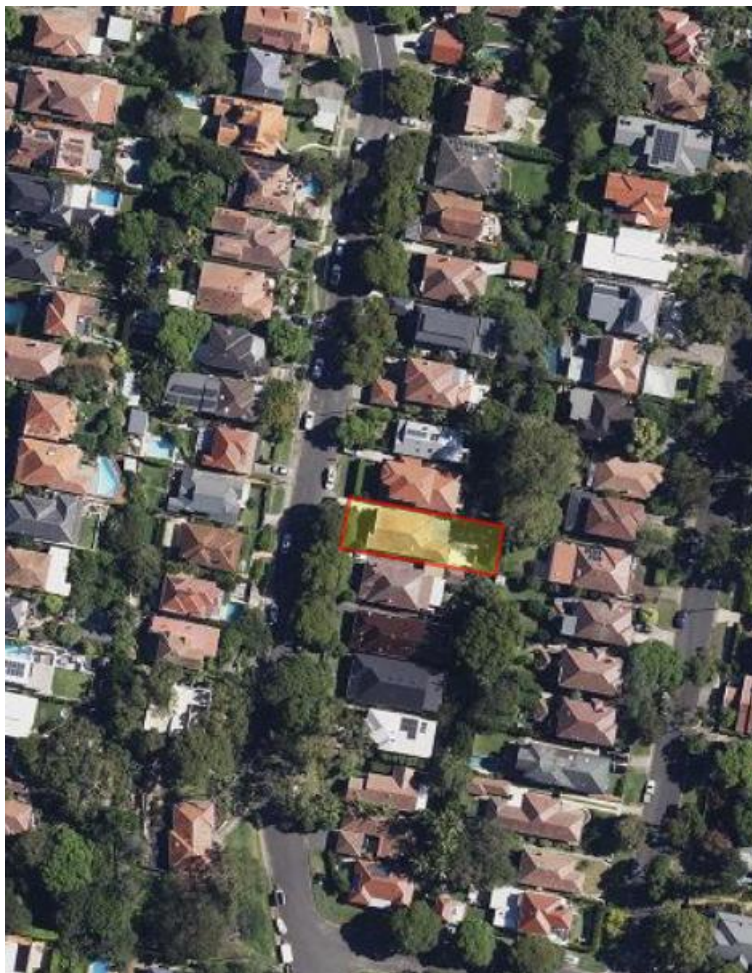


#### 4.0 Surrounding Environment

The area surrounding the site is predominantly represented by a mix of development comprising dwellings of varying sizes, reflective of the R2 zoning of the locality. Modern larger dwellings, as well as ancillary structures such as swimming pools and secondary dwellings are common place.

The site is in close proximity of Manly Wharf and Manly Corso, which both contain a diverse mix of retail, residential and public transport facilities that contribute to the locality. Proximity to the wharf provides public transport access to Circular Quay port, Sydney CBD, and the wider Sydney Metropolitan Area.

There are also a number of community and recreational open space areas nearby, including North Harbour Reserve to the north of the site and Forty Basket Beach to the east.



**Fig 10: Aerial view of subject site**  
(Source: Six Maps)

## 5.0 Proposed Development

As detailed within the accompanying plans prepared by RAW Architects, the proposal seeks consent for the proposed alterations and additions to the existing dwelling (existing approved additions to a separate complying development certificate) and the construction of a new carport and associated landscaping.

The site has an existing Complying Development Certificates for the following works:

- CDC2021/1015: for swimming pool, deck and retaining wall
- CDC2024/0988: for alterations and additions to the dwelling, including the alterations to the existing lower ground and ground floor, and a new first floor.

The works under CDC2021/1015 have been completed.

The works under CDC2024/0988 have not yet been completed.

The new works proposed under the development application comprise of the following:

### Ground Floor Level

- Proposed Minor demolition works to the eastern façade of the ground floor level to see the removal of a small addition at the rear and replacement with covered open decking and new glass doors on the eastern elevation
- An extension to the existing ground floor rear deck with fixed privacy screening along the northern elevation, and enclosed walls on the southern elevation
- Roofing over the extended deck area

### External Works

- New detached carport over the existing hardstand area
- Replace existing astro turf with new landscape lawn area to the rear of the site
- New landscaped areas within the side setbacks

The proposed new works represents a high-quality architectural design solution that will provide a significant enhancement to the amenity and usability of the existing approved dwelling. The resultant development is highly articulated, with skilful use of shading and privacy devices, with a continuation of the existing roof form and differing materiality to break down the size of the works and reduce bulk and scale.

The articulated side boundary setbacks maintain the rhythm of development and building setbacks within the street and provide appropriately for spatial separation, deep soil landscape opportunity, privacy, solar access and view sharing.

The internal design and arrangement will afford exceptional amenity to future occupants without unreasonably compromising the amenity of surrounding residential properties or the foreshore scenic attributes of the precinct.



The proposed external finishes reflect the existing dwelling house and complements the surrounding development.

The proposed new carport over the existing hardstand allows for a weather protection and continues to provide level direct access to the dwelling house.

The proposal does not seek the removal of any significant vegetation.

The existing landscaping will be further enhanced with the proposed replacement of astro turf with new lawn area.

The development indices for the site are:

|                                     |  |
|-------------------------------------|--|
| Site Area                           | 461m <sup>2</sup> (by survey)  |
| Maximum Floor Space Ratio           | 0.45:1 or 207.45m <sup>2</sup>   |
| Floor Space Ratio                   | Existing – 253m <sup>2</sup> or 0.54:1 (inclusive if CDC approval)<br>Proposed – 245m <sup>2</sup> or 0.53:1 (minor reduction) |
| Maximum Building Height             | 8.5m   |
| Proposed Building Height            | 7.68m  |
| Required Open Space/Landscape (OS3) | 55% or 253.55m <sup>2</sup> / 35% or 88.74m <sup>2</sup>   |
| Proposed Open Space                 | 40.09% or 189m <sup>2</sup> (See DCP discussion)   |
| Proposed Landscape                  | 46% of open space or 87m <sup>2</sup>  |

## **6.0 Zoning and Development Controls**

### **6.1 State Environmental Planning Policy (Biodiversity and Conservation) 2021**

Chapter 2 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (the Biodiversity & Conservation SEPP) contains planning controls for the removal of vegetation on the land within non-rural areas of the State. The policy aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State and to preserve the amenity of nonrural areas of the State through the preservation of trees and other vegetation.

No significant or high value vegetation is proposed to be removed as part of the proposed development. Accordingly, the provisions of this SEPP are satisfied by the proposal. No further consideration of the SEPP is required.

### **6.2 State Environmental Planning Policy (Resilience and Hazards)**

#### Remediation of Land

Chapter 4 of SEPP (Resilience and Hazards) applies to all land and aims to provide for a state-wide planning approach to the remediation of contaminated land.

Clause 4.6(1)(a) of this policy requires the consent authority to consider whether land is contaminated. Given the history of residential use of the land, the site is not considered to be subject to contamination and further investigation is not required at this stage.

Overall, the proposed modified development remains consistent with the relevant provisions of SEPP (Resilience and Hazards).

### **6.3 State Environmental Planning Policy (Sustainable Buildings) 2022**

A BASIX Certificate is submitted with the application and confirms that the proposal will comply with the water, thermal comfort, and energy efficiency requirements of the policy.

### **6.4 Manly Local Environmental Plan 2013**

The land is zoned R2 Low Density Residential under the provisions of the MLEP 2013.

The development of and use of the land for residential purposes is consistent with the objectives of the R2 Low Density Residential, which are noted as:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*





**Fig 11: Extract of Manly Local Environmental Plan 2013 Zoning Map**

It is considered that the proposed works will achieve the zone objectives and are consistent with the established character of the surrounding locality for the following reasons:

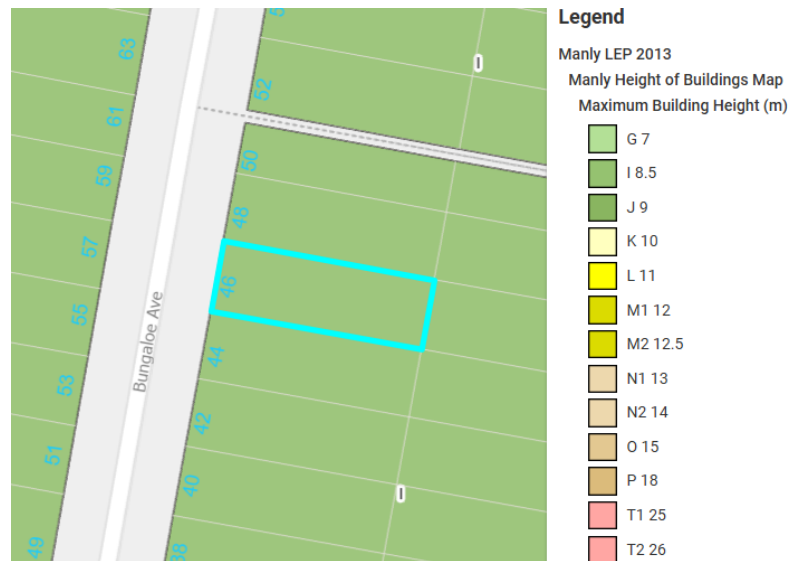
- The proposal will be consistent with the existing dwelling and complement the existing detached style housing within the locality.
- The proposed development respects the scale and form of the existing and other dwellings in the vicinity and therefore complements the locality.
- The setbacks are consistent with the existing development and compatible with the existing surrounding development.
- The site is utilised as housing and will continue to maintain the residential use.
- The works will provide for development which will maintain the residential scale and character of the locality.
- The proposed new works will provide for increased residential amenity, together with enhanced functionality through the introduction of improved vehicular parking, functional recreation areas and additional natural landscaped areas.
- The proposal will maintain an appropriate level of amenity to the adjoining properties.
- The proposal does not unreasonably obstruct any significant views from private property or the public domain.
- As detailed in this report the proposal maintains appropriate solar access to the surrounding properties.

#### **Clause 4.3 – Height of buildings**

The dictionary supplement to the LEP notes building height to be:

***building height** (or **height of building**) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*

The building height limit for development in this portion of Balgowlah is 8.5m. The new roofline will provide for a building height of 7.68m, thereby readily complying with the requirements of the control.



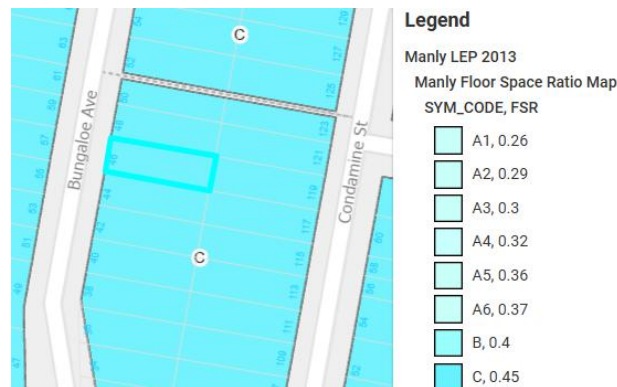
**Fig 12: Extract of Manly Local Environmental Plan 2013 Maximum Building Height Map**

#### Clause 4.4 – Floor space ratio

Manly LEP 2013 prescribes a maximum floor space ratio (FSR) of 0.45:1 (Area C). As a consequence of the minor demolition works to reduce the extent of the ground floor level through the removal of the rear addition and its replacement with open deck, the existing gross floor area will reduce from 253m<sup>2</sup> to 245 m<sup>2</sup> or a reduction in the floor space ratio from 0.55:1 or 0.53:1.

The calculated gross floor area of the dwelling includes the floor area previously approved via separate Complying Development Certificate. A Written Request to vary the Development Standard under clause 4.6 of the Manly LEP has been prepared.

As a result, the extent of the existing breach of the floor space ratio control is reduced.



**Fig 13: Extract of Manly Local Environmental Plan 2013 Floor Space Ratio Map**



#### **Clause 6.1 – Acid Sulfate Soils.**

The area is identified with the Class 5 Area. As the works are not expected to disturb any acid sulfate soils, it is considered that no further investigation of the soil is warranted in this instance.

#### **Clause 6.2 – Earthworks**

The proposed works will require some site leveling in order to accommodate the proposed new hardstand and lawned area at the rear of the site.

All works will be carried out under the supervision and direction of the Geotechnical and Structural Engineers and will be managed to ensure that the amenity and safety of the subject and neighbouring dwellings will be protected.

#### **Clause 6.4 – Stormwater management**

The proposal meets the objectives of the clause as stated below in that:

- (a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and*
- (b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and*
- (c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

The development maintains suitable pervious areas within the site. The proposed stormwater from the new roof areas for the carport and deck area will be directed to the rear dispersal system in accordance with Council's requirements.

The disposal of stormwater from the development is addressed within plan DA-900 prepared by raw Architectural Designs, dated 15 January 2025.

#### **Clause 6.8 – Landslide risk**

The site is identified on Council's DCP mapping as being within Area G4 on the Landslip Hazard Map. The subject site will not see any significant alteration to the existing site conditions as no excavation or significant earthworks are proposed. All works will be carried out under the supervision and direction of a Structural Engineer and will be managed to ensure that the amenity and safety of the subject and neighbouring dwellings will be protected.



Fig 14: Extract of Manly Potential Geotechnical Landslip Hazard Areas

## 6.9 relates to Foreshore Scenic Protection Area.

The objectives of this control are as follows:

- 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,*
- measures to protect and improve scenic qualities of the coastline,
- *suitability of development given its type, location and design and its relationship with and impact on the foreshore,*
- *measures to reduce the potential for conflict between land-based and water-based coastal activities.*

The proposal provides an appropriate carport and decking structure to provide much needed shade and weather protection over the existing car hardstand area and new decked area. The dwelling retains the existing height level of RL37.32 with the existing sufficient setbacks to remain. This ensures reasonable light, view retention, solar access and privacy to adjoining properties is maintained. The works are in keeping with the bulk and scale of existing surrounding development and will not be a visually dominant feature within the locality.

The proposal is considered to maintain the scenic qualities of the Balgowlah locality and will maintain consistency with the desired outcomes of the clause.

There are no other clauses of the MLEP 2013 that are considered to be relevant to the proposed development.

It is considered that the proposal achieves the requirements of the MLEP.

## 6.4 Manly Development Control Plan 2013

Council's DCP Development Control Plan 2013 – Amendment 14 provides the primary control for development within the area.

The DA submission will address the Council's submission requirements outlined in Part 2 – Process.

The primary areas which are applicable to the proposed works are detailed within Part 3 – General Principles of Development & Part 4 – Development Controls and Development Types.

### Clause 3.1.1 Streetscape (Residential Areas)

The proposed development will maintain a two and three storey scale which is stepped to follow the siting topography of the site, which minimises the visual bulk of the development.

The intended outcomes are noted as:

- i) *complement the predominant building form, distinct building character, building material and finishes and architectural style in the locality;*
- ii) *ensure the bulk and design of development does not detract from the scenic amenity of the area (see also paragraph 3.4 Amenity) when viewed from surrounding public and private land;*
- iii) *maintain building heights at a compatible scale with adjacent development particularly at the street frontage and building alignment, whilst also having regard to the LEP height standard and the controls of this plan concerning wall and roof height and the number of storeys;*
- iv) *avoid elevated structures constructed on extended columns that dominate adjoining sites such as elevated open space terraces, pools, driveways and the like. See also paragraph 4.1.8 Development on Sloping Sites and paragraph 4.1.9 Swimming Pools, Spas and Water Features;*
- v) *address and compliment the built form and style any heritage property in the vicinity to preserve the integrity of the item and its setting. See also paragraph 3.2 Heritage Considerations;*
- vi) *visually improve existing streetscapes through innovative design solutions; and*
- vii) *Incorporate building materials and finishes complementing those dominant in the locality. The use of plantation and/or recycled timbers in construction and finishes is encouraged. See also paragraph 3.5.7 Building Construction and Design*

The works at the rear of the dwelling will not be visible from the Bungalow Avenue street view. However, the proposed open style carport will be visible. The open style carport provides for a complimentary and compatible building form and setback alignment to the street compared to predominant building form and setback alignment established by existing carport development located on the low side of Bungalow Avenue within this particular street block.

Parking structures within this section of Bungalow Avenue are a mix of single and double car parking structures, with numerous examples of both single and double carports presenting to the



street. The single carport does not dominate the street frontage and is consistent with predominant streetscape character.

The carport provides an appropriate bulk and scale to minimise the visual dominance of the proposed car parking structures. It is acknowledged that the existing landscaping within the front setback visually improves the streetscape and will potentially assist in softening the carport built form, meaning the design of the carport and treatment of the front setback is consistent with a number of provisions of the clause.

The new works are complementary to the existing locality and the surrounding development and are therefore worthy of Council's support.

### **Clause 3.3 Landscaping**

The proposed new works will maintain a generous area of soft landscaping in the front setback and at the rear of the site. The new works will present an appropriate form and footprint, which is logically and appropriately located in order to maintain the areas of soft landscaping in the front, side and rear boundaries.

The existing landscaping will be further enhanced with additional natural areas of landscaping to be incorporated in the side setbacks, and at the rear via the removal of the astro turf, which will assist in providing natural landscaped areas on the site.

A Landscape Plan has prepared by RAW Architectural dated 15 January 2025 in details the considerable planting of the site including additional mid-storey and groundcover plantings to assist in providing additional soft landscaped areas.

The existing landscaping and as supplemented as proposed will continue to minimise overlooking to neighbouring properties.

### **Clause 3.4 Amenity (Views, Overshadowing, Overlooking/Privacy, Noise)**

The objectives of the clause are noted as:

- |                     |   |
|---------------------|---|
| <i>Objective 1)</i> | <i>To protect the amenity of existing and future residents and minimise the impact of new development, including alterations and additions, on privacy, views, solar access and general amenity of adjoining and nearby properties.</i> |
| <i>Objective 2)</i> | <i>To maximise the provision of open space for recreational needs of the occupier and provide privacy and shade.</i>  |

It is suggested that the works will achieve these objectives as:

- In relation to privacy, in the preparation of the decking design particular attention was given to ensuring orientation of the decking continues to be over the rear eastern boundary, with new fixed privacy louvers for the northern elevation and an enclosed wall on the southern elevation to ensure privacy is retained for the neighbouring sites.

- The carport and the decking area maintains the existing setbacks from the front, side and rear boundaries, and together with the existing boundary fencing and landscape plantings, this ensures that the proposal will not result in any impacts on the privacy of neighbouring dwellings.
- The proposal is not considered to result in an unreasonable loss of views, with uphill properties to largely retain any potential district views to the north-east.
- The proposed new works will not see any unreasonable diminution of the solar access enjoyed by the neighbouring properties. The new works are compatible in bulk and scale to the newer development in the area.

### Clause 3.5 Sustainability

The design provides for sustainable development, utilising passive solar design principles, thermal massing and achieves required cross ventilation. A BASIX certificate is provided with the application.

### Clause 3.7 Stormwater Management

The development maintains suitable pervious areas within the site. The proposed stormwater from the new roof areas for the carport and deck area will be directed to the rear dispersal system in accordance with Council's requirements.

The disposal of stormwater from the development is addressed within plan DA-900 prepared by raw Architectural Designs, dated 15 January 2025.

## Part 4 – Residential Development Controls

### Site Area 461m<sup>2</sup> - Density Sub Zone D5 (500m<sup>2</sup> per lot)

#### Compliance Table

| Control  | Required   | Proposed   | Compliance                                       |
|--|--|--|--|
| <b>Clause 4.1.1</b><br>Residential Density & Subdivision | Density Area D5 – 1 dwelling per 500m <sup>2</sup>                   | Site area 461m <sup>2</sup>  | Yes – existing site and dimensions are unchanged |
| <b>Clause 4.1.2</b><br>Height of Buildings               | Maximum height – 8.5m<br><br>Wall height – 6.9m (site gradient 1:16) | Maximum height of new works – 7.68m (as existing RL 37.32)<br><br>Max proposed wall height (southern elevation) complies with the requirements of the control. | Yes<br><br>Yes                                   |

| Control  | Required   | Proposed   | Compliance     |
|--|--|--|----------------|
|  | Max two storeys  | No change to the approved multi-level dwelling   | Yes            |
|  | Roof height – 2.5m above wall height   | Roof height <2.5m  | Yes            |
| <b>Clause 4.1.13</b><br>Floor Space Ratio (FSR)        | 0.45:1   | <p>The proposed FSR inclusive of the approved works under the separate Compliant Develop Certificate will reduce the FSR from 0.55:1 to 0.53:1.</p> <p>A Written Request under clause 4.6 of the MLEP 2013 has been prepared.</p>  | N/A            |
| <b>Clause 4.1.4</b><br>Setbacks (front, side and rear) | <p><u>Front</u></p> <p>a) Relate to neighbouring sites and the prevailing building lines or 6m</p> <p>c) Projections into the front setback may be accepted for unenclosed balconies, roof eaves, sun-hoods, chimneys, meter boxes and the like, where no adverse impact on the streetscape or adjoining properties is demonstrated to Council's satisfaction.</p> | <p>Proposed front setback of the proposed carport, which is located forward of the existing dwelling and with no ready alternative for parking to be provided behind the front setback, will stand on a nil setback to the front boundary.</p> <p>The site is constrained to provide parking in any other location on the site due to the existing dwellings location on the site, and the existence of a street tree.</p> | Yes – on merit |



| Control                                    | Required  | Proposed  | Compliance     |
|--|---|---|----------------|
| Side Boundary setback – 1/3 of wall height | <p><u>Side</u><br/>1/3 x wall height</p> <p><i>Ground floor</i><br/>N side = 1.56m<br/>S side = 1.56m</p> | <p>These constraints mean the existing location is the logical area in which to provide for parking with weather protection.</p> <p>Given the open nature of the proposed carport structure and the fact that it is located over the existing hardstand area, the proposed structure is considered to be reasonable.</p> <p>Variations of the front setback for up and parking structures and garages are not uncommon in the immediate locality with multiple examples of double and single open carports on limited setbacks.</p> <p>As a result, the front setback is considered reasonable in this instance.</p> <p>Minimum north setback is 1.713m and minimum south setback is 1.0m to the deck.</p> <p>The setback to the carport to the northern boundary is Nil.</p> | Yes – on merit |

| Control           | Required | Proposed   | Compliance |
|-------------------|----------|--|------------|
| Rear setback – 8m |          | <p>The northern side setbacks comply with Council's requirements, however the southern setbacks present a minor variation to the side setback control.</p> <p>The portion of the development that does not meet the minimum requirement will not result in any unreasonable impacts for the adjoining neighbour in terms of views, solar access, privacy or general amenity, particularly as this setback is existing and an enclosed wall is to be constructed adjoining the new decking area.</p> <p>The bulk and scale of the development is considered to be in keeping with that of existing surrounding development.</p> <p>Notwithstanding the variation, the proposal is in keeping with the desired outcomes of this clause, and is worthy of support on merit.</p> <p>The proposed new works will stand 11.587m from the rear boundary and</p> | Yes        |

| Control   | Required   | Proposed  | Compliance                       |
|---|--|---|----------------------------------|
|   |  | therefore comply with this control.   |                                  |
| <b>Clause 4.1.5</b><br>Open space and Landscaping | Area OS 3<br>Open space:<br>Min 55% site area<br>Landscaping:<br>35% of open space | <p>Proposed open space – 40.09 or 189m<sup>2</sup><br/>Proposed soft open space – 46% or 87m<sup>2</sup> of the available open space)</p> <p>The objectives of this control are as follows:</p> <ul style="list-style-type: none"> <li>• <i>To retain and augment important landscape features and vegetation including remnant populations of native flora and fauna.</i></li> <li>• <i>To maximise soft landscaped areas and open space at ground level, encourage appropriate tree planting and the maintenance of existing vegetation and bushland.</i></li> <li>• <i>To maintain and enhance the amenity (including sunlight, privacy and views) of the site, the streetscape and the surrounding area.</i></li> <li>• <i>To maximise water infiltration on-site with porous landscaped areas</i></li> </ul> | <p>Yes – on merit</p> <p>Yes</p> |



| Control | Required | Proposed  | Compliance |
|---------|----------|---|------------|
|         |          | <p><i>and surfaces and minimise stormwater runoff.</i></p> <ul style="list-style-type: none"> <li><i>• To minimise the spread of weeds and the degradation of private and public open space.</i></li> <li><i>• To maximise wildlife habitat and the potential for wildlife corridors.</i></li> </ul> <p>The proposal will result the introduction of additional landscape plantings in the side setbacks, with the retention of landscape areas in the front and rear setbacks.</p> <p>As a result, the amended landscaping and associated plantings will enhance the appearance and enjoyment of the site.</p> <p>Given the development will see the retention of a generous area of soft landscaping, together with landscape plantings which soften and screen the built form of the development, the available open space area is considered worth of support on merit.</p> |            |

| Control                        | Required     | Proposed  | Compliance |
|--------------------------------|--------------|---|------------|
| <b>Clause 4.1.6</b><br>Parking | Min 2 spaces | <p>The proposal will continue to provide for one (1) off-street car spaces, which is non-compliant with the minimum two (2) spaces.</p> <p>However, as the site is constrained by the limited available area within the front setback, and the existence of a street tree, one car parking space is considered reasonable in this instance.</p> <p>To provide for an additional car parking space vital landscape area at the front setback would be required to be removed.</p> <p>This landscape area is vital to not only screen and soften the dwelling house, but to also ensure the dwellings remains consistent with the landscape character of the immediate and greater area.</p> <p>As a result, maintaining the existing car parking arrangement is believed to be acceptable in this situation.</p> | Yes        |

| Control   | Required  | Proposed  | Compliance |
|---|---|---|------------|
| <b>Clause 4.1.6.4</b><br>Vehicular Access           | <p>a) All vehicles should enter and leave the site in a forward direction.</p> <p>b) Vehicular access and parking for buildings with more than 1 dwelling is to be consolidated within one location, unless an alternative layout/design would better reflect the streetscape or the building form.</p> <p>c) Vision of vehicles entering and leaving the site must not be impaired by structures or landscaping.</p> <p>d) Particular attention should be given to separating pedestrian entries and vehicular crossings for safety.</p> | <p>A new driveway crossover is provided from Bungaloe Avenue to provide access to the new carport.</p> <p>Forward entry and exit is available.</p> <p>The proposed vehicular access point will not be obscured by structures or landscaping.</p> <p>Forward entry and exit is not available due to constraints in the available area.</p> | Yes        |
| <b>Clause 4.1.8</b><br>Development on Sloping Sites | <p><i>Area G24 – Potential Hazards</i></p> <p>Potential Geotechnical hazards in this area include:</p> <ul style="list-style-type: none"> <li>Rock falls and slumping of soil and fill materials from unsupported cuts and natural cliffs onto public and private pathways and roadways</li> <li>Possible creep of talus materials on</li> </ul>  | <p>The site is identified on Council's DCP mapping as being within Area G4 on the Landslip Hazard Map. All works will be carried out under the supervision and direction of a Structural Engineer and will be managed to ensure that the amenity and safety of the subject and neighbouring</p>   | Yes        |



| Control  | Required  | Proposed  | Compliance |
|--|---|---|------------|
|  | <p>steeper soil covered slopes.</p> <ul style="list-style-type: none"> <li>Possible movement of detached blocks of sandstone. Limited to moderate damage of some or part of structures (for example dwelling or roadway), with part of site requiring some stabilisation works. Large scale stabilisation works unlikely to be required.</li> </ul> <p><i>Area G4 – Potential Hazards and Requirements</i><br/>Geotechnical Assessment may be required depending on location and nature of development and man-made cut and fill.</p> | <p>dwellings will be protected.</p> <p>The proposal will be carried out in accordance with the provisions of this clause.</p> |            |
| <p><b>Clause 4.1.9</b><br/>Swimming pools, spas and Water features</p> | <p>Height above ground not more than 1m</p> <p>Setback of outer edge of pool concourse from side and rear boundaries must be at least 1m with water line being at least 1.5m from the boundary.</p> <p>Pool not to exceed 30% of total open space</p>   | N/A   | N/A        |

|                                 |   |   |     |
|---------------------------------|---|---|-----|
| <b>Clause 4.1.10</b><br>Fencing | <p>Freestanding walls and fences between the front street boundary and the building are to be no more than 1m high above ground level at any point.</p> <p>In relation to open/transparent fences, height may be increased up to 1.5m where at least 30 percent of the fence is open/ transparent for at least that part of the fence higher than 1m.</p> | No fencing is proposed as part of this application. | N/A |
|---------------------------------|---|---|-----|

## **7.0 Matters for Consideration under Section 4.15 of The Environmental Planning and Assessment Act, 1979**

### **7.1 The provisions of any environmental planning instrument**

The proposal is subject to the provisions of the Manly Local Environmental Plan 2013 and the relevant supporting Council policies. It is considered that the provisions of this environmental planning instrument have been satisfactorily addressed within this report and that the proposal achieves compliance with its provisions.

There are no other environmental planning instruments applying to the site.

### **7.2 Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and**

There are no draft instruments applying to the land.

### **7.3 Any development control plan**

The development has been designed to largely comply with the requirements of Council's Manly Development Control Plan 2013.

It is considered that the proposed design respects the aims and objectives of the DCP however we note that the Environmental Planning and Assessment Amendment Act 2012 No 93 (Amendment Act) which received assent on 21 November 2012 commenced on 1 March 2013.

Key amongst the amendments are requirements to interpret DCPs flexibly and to allow reasonable alternative solutions to achieve the objectives of DCP standards.

The new section 3.42 provides that the 'principal purpose' of DCPs is to 'provide guidance' on:-

- giving effect to the aims of any applicable environmental planning instrument
- facilitating permissible development
- achieving the objectives of the relevant land zones.

The key amendment is the insertion of section 4.15(3A) which:

- prevents the consent authority requiring more onerous standards than a DCP provides,
- requires the consent authority to be 'flexible' and allow 'reasonable alternative solutions' in applying DCP provisions with which a development application does not comply,
- limits the consent authority's consideration of the DCP to the development application (preventing consideration of previous or future applications of the DCP).

We request that Council applies considered flexibility where the application seeks variations to numerical development controls in the DCP as justified in this report. In particular, we consider that the variation to the side and front setback controls are a reasonable alternative solution to

compliance where the site conditions results in a challenge to designing for new development which fully respects the criteria.

It is considered that the proposed design respects the desired character objectives of the DCP in that it reinforces the existing residential character of the area and is compatible with the existing uses in the vicinity.

**7.4 Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and**

No matters of relevance are raised in regard to the proposed development.

**7.5 The regulations (to the extent that they prescribe matters for the purposes of this paragraph),**

No matters of relevance are raised in regard to the proposed development.

**7.6 The impacts of that development, including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality.**

It is considered that the proposal, which seeks consent for the construction of a new deck, carport, and associated landscaping, will not unreasonably impact upon the amenity of adjoining properties or upon the character of the surrounding area. It is considered that the resultant development is compatible with and will complement the residential character of the area.

The proposal is considered to be well designed having regard to the relevant provisions of the Council's MLEP 2013 and Council's Codes and Policies, in particular the Manly DCP 2013.

**7.7 The suitability of the site for the development**

The subject land is currently zoned R2 Low Density Residential under the Manly Local Environmental Plan 2013 and is considered suitable for the proposed development.

**7.8 Any submissions made in accordance with this Act or the regulations**

This is a matter for Council in the consideration of this proposal.

**7.9 The public interest**

The proposal will not impact upon the environment, the character of the locality or upon the amenity of adjoining properties and is therefore considered to be within the public interest.

## **8.0 Conclusion**

The principal objective of this development is to provide for a new deck, carport and associated landscaping, which respects and complements the site's location.

The proposal is a site-specific design response which takes advantage of the properties locational attributes whilst respecting the environmental characteristics of the site and the amenity of adjoining development.

The outcome is a modernised arrangement which appropriately responds to the sites existing dwelling, geometry and the environmental constraints. The design responds appropriately in relation to privacy, solar access and views.

The proposals building height is compliant with the MLEP, with the new deck area appropriately distributed across the site. The building displays a complimentary and compatible building form when compared to other development located along this section of Bungaloe Avenue and within the site's visual catchment generally.

The side boundary setbacks maintain the rhythm of development and building setbacks within the street and provide appropriately for spatial separation, deep soil landscape opportunity, privacy, solar access and view sharing.

The new internal design and arrangement will afford exceptional amenity and functionality to future occupants without unreasonably compromising the amenity of surrounding residential properties or the foreshore scenic attributes of the locality.

It is considered that the proposed works satisfy the stated objectives of Council's Development Controls. By maintaining our neighbour's amenity and by complementing the existing style and character of the surrounding locality, the stated objectives have been satisfied.

As the proposed development will not have any significant impact on the environment, scenic quality of the area or the amenity of the adjoining allotments, the issue of Development Consent under the delegation of Council is requested.

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