

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2020/1448
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<b>Responsible Officer:</b>	Kye Miles
<b>Land to be developed (Address):</b>	Lot 1 DP 998291, 48 Wood Street MANLY NSW 2095
<b>Proposed Development:</b>	Alterations and additions to a dwelling house
<b>Zoning:</b>	Manly LEP2013 - Land zoned R1 General Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Craig Rodney Dingle Veronica Tracey Williams
<b>Applicant:</b>	Craig Rodney Dingle

<b>Application Lodged:</b>	16/11/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	25/11/2020 to 09/12/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Refusal

<b>Estimated Cost of Works:</b>	\$ 96,600.00
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### PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for alterations and additions to an existing dwelling house at No. 48 Wood Street, Manly. The works comprise of;

- Construction of a single carport with an associated driveway and crossover,
- Construction of a new front fence with sliding gate,
- Extending rear patio,
- Construction of a new south-east facing window, which will be attached to the existing study,
- Associated landscaping works.

### ASSESSMENT INTRODUCTION

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

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

## SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 5.10 Heritage conservation

Manly Development Control Plan - 3.2 Heritage Considerations

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

Manly Development Control Plan - 4.1.5 Open Space and Landscaping

Manly Development Control Plan - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 1 DP 998291 , 48 Wood Street MANLY NSW 2095
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the southern side of Wood Street.</p> <p>The site is regular in shape with a frontage of 7.6m along Wood Street and a depth of 45.7m. The site has a surveyed area of 348.4m<sup>2</sup>.</p> <p>The site is located within the R1 General Residential zone and accommodates a heritage listed cottage. The subject dwelling is single storey and has no off-street parking.</p> <p>The site slopes in the south-west direction with an approximate fall of 5.0m.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Surrounding properties consist of other dwelling houses of varying age, size and construction.</p>

Map:



## SITE HISTORY

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

### **PLM2019/0045:**

Pre-lodgement meeting for the subject application, held on 21 April 2019. The meeting concluded that the proposal was not satisfactory in its current form and required a redesign prior to submission. Specifically it was advised to make the following amendments;

*"a. greater (maximised) landscaped setbacks to both side boundaries and increasing the proportion of landscaping within the front setback (i.e. by (i) deleting the ramp and hardpaved area between the top of the ramp and the front fence on the eastern side and widen the landscaping to the edge of the carspace and (ii) reduce the extent of paving on the western side in between the new steps and the front gate by widening the landscaping to the edge of the carspace for 50% of the area of that hardpaving)*

*b. the use of natural pavers (sandstone or similar) for the surface of the carspace and pedestrian areas to soften the visual impact of this area*

*c. lowering the hardstand area to maximise the visibility of the dwelling when a car is parked on the site*

*d. the design of the proposed front fence must allow bandicoots to pass through."*

### **Application History**

16/11/2020

Application for carport and rear patio extension received by Council.

26/11/2020

Request for additional information sent out to applicant, as the proposal included a carport design that

resulted in adverse impacts to the scenic quality of the concerned heritage item.

22/12/2020

Amended plans received by Council, which involved removing the carport and proposing a single hardstand space.

20/01/2021

Site visit completed.

21/01/2021

Revised Heritage comments completed, which remained unsupportive. Specifically, concerns focused on the raised nature of the parking platform, as the structure and balustrading would still adversely impede upon the front façade of the heritage listed cottage. Furthermore, it was recommended that the hardstand was to be relocated towards the northern boundary in order to reduce the hardstand level. However, this option was not available due to the prevalent site constraints, such as the slope of the land and the existing electrical pole.

27/01/2021

The applicant requested that the proposed carport and hardstand is deleted from the application via a Condition of Consent.

15/02/2021

The applicant revised their position on the above matter and requested that the proposal is assessed, based on the originally submitted plans.

18/02/2021

Final Heritage comments completed, which refused the application.

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions	<u>Division 8A</u> of the EP&A Regulation 2000 requires the consent

Section 4.15 Matters for Consideration'	Comments
of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p>authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to amended plans.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED



The subject development application has been publicly exhibited from 25/11/2020 to 09/12/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

## REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	<p>2nd Development engineering referral</p> <p>A new set of plan has been sent to Council. Development Engineering has no objection to the application subject to the following condition of consent.</p> <p>1st Development Engineering referral The submitted architecture plan and driveway cross plan are inconsistent.</p> <p>The proposed carport level is RL 17.28-17.36 at boundary in accordance with the submitted driveway crossing plan. It is about 200mm lower than the proposed level in the architecture plan. The applicant must amend to plans to ensure the finish level of the carport.</p> <p>And also the existing footpath outside No 46 Wood Street needs to be raised to accommodate the proposed new crossing. The property owner of the No. 46 Wood Street may be advised the proposed change.</p> <p>As such, Development Engineering is unable to provide the assessment due to the inconsistent plans.</p>
Strategic and Place Planning (Heritage Officer)	<b>HERITAGE COMMENTS</b>
	Discussion of reason for referral
	<p>The proposal has been referred to Heritage as the subject property is a heritage item, being part of group listed cottages - <b>Item I261 - Houses</b> - 42 and 46–48 Wood Street, and is within the vicinity of heritage items:</p> <p><b>Item I262 - Houses - Residential flat building</b> - 49 Wood Street</p> <p><b>Item I263 - Houses - House</b> - 51 Wood Street</p> <p><b>Item I2 - Houses - All stone kerbs</b> - Eastern side of Wood Street</p>
	Details of heritage items affected
	<p>Details of the items as contained within the Manly heritage inventory are as follows:</p>

Internal Referral Body	Comments		
	<p><b>Item I261 - Houses</b> <u>Statement of significance:</u> Listed as a unified group of modest single storey weatherboard cottages. <u>Physical description:</u> Single storey weatherboard cottages with hipped corrugated metal roofs with skillion roofed verandahs and timber louvred gable vents. Verandahs feature stop-chamfered timber posts.</p> <p><b>Item I262 - Houses - Residential flat building - 49 Wood Street</b> <u>Statement of significance:</u> Listed as a representative Inter-War Georgian Revival style flat building. <u>Physical description:</u> Two storey Inter-War Georgian Revival style flat building in dark face brick with hipped unglazed terracotta roof, 6 &amp; 8 Wood Street, paned timber framed double hung windows, central gabled entry bay with elaborate brickwork and decorative entablature over entry with decorative stucco brackets. Two storey corner bays with terracotta shingled aprons either side of entry bay. Original brick fence. Contains four flats.</p> <p><b>Item I263 - House - 51 Wood Street</b> <u>Statement of significance:</u> Listed as a fine example of Victorian Filigree style residence in prominent location overlooking Little Manly Cove. <u>Physical description:</u> Two storey Victorian Filigree style residence, rendered walls, hipped and gabled roof. Verandah featuring fluted cast iron columns with decorative brackets and frieze to ground floor. Elaborate front door and French doors. A Metal Palisade front fence.</p> <p><b>Item I2 - All stone kerbs</b> <u>Statement of significance:</u> Stone kerbs are heritage listed. <u>Physical description:</u> Sandstone kerbing to streets relating to paving and kerbing of streets in the nineteenth century. Mostly located within Manly Village area and adjacent lower slopes of Eastern Hill and Fairlight.</p>		
	Other relevant heritage listings		
	Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No	
	Australian Heritage Register	No	
	NSW State Heritage Register	No	
	National Trust of Aust	No	

Internal Referral Body	Comments		
	(NSW) Register		
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	No	
	Consideration of Application		
	The proposal seeks consent for alterations and additions to the existing cottage including the construction of a carport and a driveway within the front setback, addition of a window to the existing study (eastern elevation) and a new metal roof over the existing terrace.		
	The proposed new window, to the eastern elevation, is recommended to be similar to the existing windows on this facade.		
	The proposed carport does not comply with the following section of the <b>3.2 Heritage Considerations</b> of Manly Development Control Plan 2013:		
	<b>3.2.4 Setbacks of Garages and Carports for Heritage Items and Conservation Areas</b>		
	<i>a) Garages and carports are not to be constructed forward of the building alignment of a listed heritage item or a building within a conservation area.</i>		
	<i>Note: Suitably landscaped car parking hardstand areas may be considered forward of the building alignment under this paragraph.</i>		
New work should respect the scale and character of the heritage item, and should not overpower it. The proposed carport has been located to the highest entry location of the street frontage of the original building, therefore, it is believed that it will screen the heritage item from the public view, as it was also noted in the PLM notes. From a heritage point of view, a lower located hardstand, rather than a carport may be considered acceptable.			
<b>Amended Plans - 17 December 2020</b>			
Amended plans, submitted in December 2020, have resolved one of the concerns Heritage had with the proposal by deleting the proposed carport structure, but the location and the RL of the hardstand has not been changed. The location of the proposed driveway crossing and the hardstand is recommended to be closer to the northern boundary in order to explore options to reduce the hardstand level.			
<b>Amendment to the proposal - 27 January 2021</b>			



Internal Referral Body	Comments
	<p>The applicant requested the the carport and car stand being deleted from the proposal, which resolved the main concern that Heritage had with the proposal.</p> <p><b>Amendment to the proposal - 15 February 2021</b></p> <p>The applicant requested to have the application determined based on the plans as originally submitted. The original proposal is for alterations and additions to the existing heritage listed cottage including the construction of a new carport and a driveway within the front setback.</p> <p>Heritage raised concerns regarding the proposed carport within the front setback as it does not comply with the following section of <b>3.2 Heritage Considerations</b> of Manly Development Control Plan 2013.</p> <p><b>3.2.4 Setbacks of Garages and Carports for Heritage Items and Conservation Areas</b></p> <p><i>a) Garages and carports are not to be constructed forward of the building alignment of a listed heritage item or a building within a conservation area.</i></p> <p><i>Note: Suitably landscaped car parking hardstand areas may be considered forward of the building alignment under this paragraph.</i></p> <p>The applicant had amended the plans in December 2020, to remove the carport structure from the proposal, however, the proposed hardstand required balustrade (top of the balustrade reaching the awning level of the front verandah, obscuring the views to the cottage) because of the location and height of the hardstand. Heritage suggested to reduce the level of the hardstand to be less than 1000mm above the verandah level by moving the hardstand to a more central location to eliminate the need for balustrade in order to not impact the views upon the heritage item from the street. The applicant's response was to delete the carport and the hardstand from the proposal, which was accepted by Heritage, however, the applicant has now requested the assessment to be based on the originally submitted plans.</p> <p>The proposed carport within the front setback of the heritage item is not acceptable on heritage grounds. However, a suitably designed hardstand area (a more central located hardstand with reduced level and without balustrade) may be considered within the front setback. Heritage conservation requires the retention of an appropriate visual setting that contributes to the significance of the heritage listed item and the conservation area.</p> <p>Therefore, Heritage can not support the proposal as originally</p>

Internal Referral Body	Comments
	<p>submitted.</p> <p><u>Consider against the provisions of CL5.10 of MLEP 2013.</u></p> <p>Is a Conservation Management Plan (CMP) Required? No</p> <p>Has a CMP been provided? No</p> <p>Is a Heritage Impact Statement required? Yes</p> <p>Has a Heritage Impact Statement been provided? Yes</p> <p><b>Further Comments</b></p> <p>COMPLETED BY: Oya Guner, Heritage Advisor</p> <p>DATE: 24 November 2020, Amended 21 January 2021, Amended 29 January 2021, Amended 18 February 2021</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

## State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

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

A BASIX certificate has been submitted with the application (see Certificate No. A391275 dated 23 October 2020).

If supported a condition would be included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

### SEPP (Infrastructure) 2007

### Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

### Comment:

The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.

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

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	No
zone objectives of the LEP?	Yes

### Principal Development Standards

Standard	Requirement	Proposed	Complies
Height of Buildings:	8.5m	5.5m	Yes
Floor Space Ratio	FSR: 0.6:1 (209.04sqm)	FSR: 0.57:1 (198.8sqm)	Yes (Existing)

### **1.2 Aims of Plan**

(2) (e) *in relation to heritage—to identify, protect, sustain, manage and conserve all heritage, including archaeological relics, sites and resources, places of Aboriginal heritage significance, heritage items (and their curtilages), heritage conservation areas and the cultural (natural and built) environmental heritage of Manly.*

### Comment

The proposal has been assessed by Councils Heritage Officer. This assessment has found the proposal to be of an inappropriate design due its adverse visual impact upon the heritage listed cottage at No. 48 wood Street. The proposal is inconsistent with the objectives of the clause and is not supported by Council.

### Compliance Assessment

Clause	Compliance with Requirements
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Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.6 Exceptions to development standards	Yes
5.8 Conversion of fire alarms	Yes
5.10 Heritage conservation	No
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.5 Terrestrial biodiversity	Yes
6.8 Landslide risk	Yes
6.9 Foreshore scenic protection area	Yes
6.10 Limited development on foreshore area	Yes
6.12 Essential services	Yes

#### Detailed Assessment

#### **5.10 Heritage conservation**

##### Merit Consideration

The development is considered under the objectives of the clause below.

*The objectives of this clause are as follows:*

- (a) to conserve the environmental heritage of Manly,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

##### Comment:

The proposal has been assessed by Councils Heritage Officer. This assessment has found the proposal to be of an inappropriate design due its adverse visual impact upon the heritage listed cottage at No. 48 Wood Street. The proposal is inconsistent with the objectives of the clause and is not supported by Council.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal i is not supported, in this particular circumstance.

#### **Manly Development Control Plan**

##### Built Form Controls

Built Form Controls - Site Area: 348.4sqm	Requirement	Proposed	% Variation*	Complies
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4.1.2.1 Wall Height	South-east: 7.0m	No new walls proposed	N/A	N/A
	North-west: 7.0m	2.3m (Rear patio)	N/A	Yes
4.1.2.3 Roof Height	Height: 2.5m	1.7m (Carport)	N/A	Yes
	Pitch: maximum 35 degrees	30 degrees (Carport)	N/A	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	0.7m	88.3%	<b>No</b>
4.1.4.2 Side Setbacks and Secondary Street Frontages	South-east: 1.14m (Carport) 0.66m (Rear patio)	1.0m (Carport) 1.0m (Rear patio)	14% N/A	<b>No</b> N/A
	North-west: 1.14m (Carport) 0.69m (Rear patio)	2.8m (Carport) 0.5m (Rear patio)	N/A 27.5%	Yes <b>No</b>
	Windows 3.0m	2.0m	33.3%	<b>No</b>
4.1.4.4 Rear Setbacks	8m	9.4m	N/A	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area	30% (105sqm)	45.2%	<b>No</b>
4.1.5.2 Landscaped Area	Landscaped area 35% of open space	104% (109.8sqm)	N/A	Yes
	1 native trees	1 trees	N/A	Yes
4.1.5.3 Private Open Space	18sqm per dwelling	>18sqm	N/A	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	61% (4.7m)	22%	<b>No</b>
Schedule 3 Parking and Access	Dwelling 2 spaces	1 spaces	50%	<b>No</b>

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.2 Heritage Considerations	No	No
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.3.3 Footpath Tree Planting	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5.1 Solar Access	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.5.3 Ventilation	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.6 Accessibility	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.9 Mechanical Plant Equipment	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	No
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	No
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.10 Fencing	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
5 Special Character Areas and Sites	Yes	Yes
5.4.1 Foreshore Scenic Protection Area	Yes	Yes
5.4.2 Threatened Species and Critical Habitat Lands	Yes	Yes

### Detailed Assessment

### **3.2 Heritage Considerations**

#### Merit consideration:

The development is considered against the underlying Objectives of the Control as follows:

*Objective 1) To retain and conserve environmental heritage and cultural significance of Manly including:*

- *significant fabric, setting, relics and view associated with heritage items and conservation areas;*
- *the foreshore, including its setting and associated views; and*
- *potential archaeological sites, places of Aboriginal significance and places of natural significance.*

#### Comment:

The proposal has been assessed by Councils Heritage Officer. This assessment has found the proposal to be of an inappropriate design due its adverse visual impact upon the heritage listed cottage at No. 48 Wood Street, for detailed assessment see assessment above. The proposal does not



conserve the environmental heritage of Manly.

The proposal **does not** comply with this objective.

*Objective 2) To ensure any modification to heritage items, potential heritage items or buildings within conservation areas is of an appropriate design that does not adversely impact on the significance of the item or the locality.*

Comment:

As discussed above, the development is not suitably designed to fit sympathetically with the heritage item and will have an adverse impact on the significance of the area.

The proposal **does not** comply with this objective.

*Objective 3) To ensure that development in the vicinity of heritage items, potential heritage item and/ or conservation areas, is of an appropriate form and design so as not to detract from the significance of those items.*

Comment:

The design of the proposed development is inappropriate in the locality and will have an unreasonable impact on the character of the subject site's heritage item.

The proposal **does not** comply with this objective.

*Objective 4) To provide infrastructure that is visually compatible with surrounding character and locality/visual context with particular regard to heritage buildings/areas and cultural icons.*

Comment:

As above, the proposal is not compatible within the area.

The proposal **does not** comply with this objective.

*To ensure that development in the vicinity of heritage items, potential heritage item and/ or conservation areas, is of an appropriate form and design so as not to detract from the significance of those items.*

Comment:

The proposal is of an inappropriate form and design and will result in a significant impact on the heritage listed cottage.

The proposal **does not** comply with this objective.

*Objective 5) To integrate heritage management and conservation into the planning development process including incentives for good heritage management, adaptive reuse, sustainability and innovative approaches to heritage conservation.*

Comment:

The application has been referred to Council's Heritage Officer who determined that the development is an inappropriate design with regards to the existing heritage item. The application is recommended for

refusal on this basis.

The proposal **does not** comply with this objective.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

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

##### Description of non-compliance

The Manly DCP 2013 requires the provision of a 6m front setback, when there is no prevailing building line in the immediate vicinity. The proposed carport is set back 0.7m from the front boundary. In addition, the proposed carport provides a non-compliant south-east side setback of 1.0m.

It must be noted that the other side setback non-compliances associated with the proposed window and rear patio roof could be supported on a merit basis if the application was approved, as these works demonstrate reasonable compliance with the control's objectives.

##### Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

*Objective 1) To maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.*

##### Comment:

The proposal has been discussed in detail above with regard to its presentation to the street and the unreasonable impact it is likely to have on the heritage significance of the existing cottage and the nearby heritage items. It is acknowledged that the non-compliance with the setback controls are a result of the existing dwelling's placement and the relatively narrow lot width. However, the proposed design of the carport directly contributes to the development's impact on the street, as there are no comparable developments that share the same situation within the immediate vicinity. As such, this non-compliance cannot be supported by Council. The proposal will not maintain or enhance the existing streetscape.

The proposal **does not** comply with this objective.

*Objective 2) To ensure and enhance local amenity by:*

- *providing privacy;*
- *providing equitable access to light, sunshine and air movement; and*
- *facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*
- *defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
- *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

Comment:

The proposal has been assessed above with regards to privacy and was found to be suitably designed to provide privacy within the locality.

The proposal was accompanied by shadow diagrams that demonstrate no unreasonable overshadowing of the neighbouring properties. In particular, the properties to the south will retain good solar access during midday and the afternoon of the winter solstice and full solar access during the equinox.

The proposal will not result in any unreasonable loss of views from the neighbouring properties.

See discussion above with regards to the development impact on the heritage character of the locality. The proposal does not appropriately define or add character to the streetscape.

The proposed location of the parking structure will not result in any unreasonable impacts on the traffic conditions within the locality.

The proposal **does not** comply with this objective.

*Objective 3) To promote flexibility in the siting of buildings.*

Comment:

The immediate streetscape is defined by a unified group of modest single storey weatherboard cottages (42 and 46–48 Wood Street). Whilst, No. 42 Wood Street provides an example of a parking structure within the front setback, this development is a low lying open hardstand. Therefore, the proposed flexibility is not appropriate in this circumstance, as the development's design is an irregularity within the established streetscape.

The proposal **does not** comply with this objective.

*Objective 4) To enhance and maintain natural features by:*

- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*
- *ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
- *ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

Comment:

The non-compliance will not result in any unreasonable impacts on the natural features of the site.

The proposal **complies** with this objective.

*Objective 5) To assist in appropriate bush fire asset protection zones.*

Comment:

Not applicable.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

#### **4.1.5 Open Space and Landscaping**

##### Description of non-compliance

MDCP requires that the site consist of 55% open space with minimum dimensions of 3m. The proposed development consists of 30% (105sqm) open space.

If the application was supported this non-compliance would be generally supported, due to compliance with the following objectives;

*Objective 1) To retain and augment important landscape features and vegetation including remnant populations of native flora and fauna.*

*Objective 2) To maximise soft landscaped areas and open space at ground level, encourage appropriate tree planting and the maintenance of existing vegetation and bushland.*

*Objective 4) To maximise water infiltration on-site with porous landscaped areas and surfaces and minimise stormwater runoff.*

*Objective 5) To minimise the spread of weeds and the degradation of private and public open space.*

*Objective 6) To maximise wildlife habitat and the potential for wildlife corridors.*

Notwithstanding, concern is raised with the proposal's compliance with the following objective;

*Objective 3) To maintain and enhance the amenity (including sunlight, privacy and views) of the site, the streetscape and the surrounding area.*

These concerns are a result of the proposed carport's incompatibility within the streetscape. In addition, the design of the car space is excessive in terms of width, such that it limits adequate opportunities for landscaped areas in the front setback.

#### **4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)**

##### Description of non-compliance

The proposed carport occupies 61% (4.7m) of the subject site's frontage. MDCP requires a maximum of 50%.

It is acknowledged that the proposal is non-compliant with the parking requirements for a dwelling house. Notwithstanding, the provision of 1 parking space on the subject site could be supported if the structure was designed in a manner that satisfies the heritage concerns listed within this report.

##### Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

*Objective 1) To provide accessible and adequate parking on site relative to the type of development and the locality for all users (residents, visitors or employees).*

Comment:

The proposal has been assessed by Council's Heritage Officer. This assessment has found the proposal to be of an inappropriate design due to its adverse visual impact upon the heritage listed cottage at No. 48 Wood Street. Therefore, it is considered that the proposed parking is not relative to the type of development that exists upon the subject site.

The proposal **does not** comply with this objective.

*Objective 2) To reduce the demand for on-street parking and identify where exceptions to onsite parking requirements may be considered in certain circumstances.*

Comment:

The subject site currently has no off-street parking, therefore would reduce the demand for on-street parking.

The proposal **complies** with this objective.

*Objective 3) To ensure that the location and design of driveways, parking spaces and other vehicular access areas are efficient, safe, convenient and are integrated into the design of the development to minimise their visual impact in the streetscape.*

Comment:

The proposal has been reviewed by Council's Development Engineer's. This assessment determined that the location of the driveway is appropriate in terms of the prevalent site constraints and its design will provide safe and efficient access into the subject site. However, the location of the proposed driveway results in a raised parking structure that adversely impacts upon the scenic quality of the heritage listed cottage. Overall, the proposed carport and associated driveway has not been designed to adequately minimise their visual impact on the streetscape.

The proposal **does not** comply with this objective.

*Objective 4) To ensure that the layout of parking spaces limits the amount of site excavation in order to avoid site instability and the interruption to ground water flows.*

Comment:

The proposal does not involve any significant excavation.

The proposal **complies** with this objective.

*Objective 5) To ensure the width and number of footpath crossings is minimised.*

Comment:

The proposed changes to the footpath have been reviewed and accepted by Council's Development Engineers.

The proposal **complies** with this objective.

*Objective 6) To integrate access, parking and landscaping; to limit the amount of impervious surfaces*

*and to provide screening of internal accesses from public view as far as practicable through appropriate landscape treatment.*

Comment:

The design of the car space is excessive in terms of width, such that it limits adequate opportunities for landscaped areas in the front setback.

The proposal **does not** comply with this objective.

*Objective 7) To encourage the use of public transport by limiting onsite parking provision in Centres that are well serviced by public transport and by encouraging bicycle use to limit traffic congestion and promote clean air.*

Comment:

Not applicable.

Having regard to the above assessment, it is concluded that the proposed development is inconsistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is not supported, in this particular circumstance.

## **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

## **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

## **POLICY CONTROLS**

### **Northern Beaches Section 7.12 Contributions Plan 2019**

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

## **CONCLUSION**

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Manly Local Environment Plan;
- Manly Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects,



all other documentation supporting the application and public submissions, in this regard the application is not considered to be acceptable and is recommended for refusal.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Inconsistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Inconsistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## **RECOMMENDATION**

THAT Council, as the consent authority REFUSE Development Consent to Development Application No DA2020/1448 for the Alterations and additions to a dwelling house on land at Lot 1 DP 998291,48 Wood Street, MANLY, for the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Manly Local Environmental Plan 2013.
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 5.10 Heritage conservation of the Manly Local Environmental Plan 2013.
3. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 3.2 Heritage Considerations of the Manly Development Control Plan .
4. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed front setback is inconsistent with the provisions of Clause 4.1.4 Setbacks (front, side and rear) and Building Separation of the Manly Development Control Plan.
5. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities) of the Manly Development Control Plan.

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

**Signed**



**Kye Miles, Planner**

The application is determined on 25/02/2021, under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**