

## MORE THAN OK BUILDING



# STATEMENT OF ENVIRONMENTAL EFFECTS

## ADDRESS: 51 STUART STREET MANLY

Proposal: Alteration and Additions to a dwelling house

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## **MTOKB**

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## MTOKB

### 1.0 INTRODUCTION

More Than OK Building has been engaged by Michele and Robert Manson to prepare a Statement of Environmental Effects in support of a Development Application regarding alterations and additions work to an existing dwelling house consisting of the conversion of an existing planter box to a balcony space located at No. 51 Stuart Street Manly.

The site is zoned R1 General Residential under the Manly Local Environment Plan 2013 (MLEP 2013) of which the development of a dwelling house, to which the conversion of a balcony space is considered ‘ancillary’ development is therefore permissible with consent.

The proposed development has found to be generally consistent with the relevant controls of the Manly DCP. The relevant parts of the DCP to be considered include Part 3 General Principles of Development and Part 4 Development Control and Development Types.

This SEE report is intended to assist Northern Beaches Council in its assessment of the Development Application and incorporates the following details:

- Description of site and context;
- Description of proposed development;
- Consideration of relevant planning considerations;
- Consideration of relevant environmental effects;
- S4.15 (79C)-Matters for Consideration under EP & A Act

This report should be read in conjunction with the following supporting material:

- Site Plans Ole Kjaer dated 24.08.2021

## 2.0 SITE DETAILS



## 2.1 Site Location

The subject land is located at No. 51 Stuart Street, Manly as identified in the figure above.



## 2.2 Site Description

The subject land is described as Lot A DP150721. The site is rectangular in shape with an allotment of 307 m<sup>2</sup>, with a frontage of 10.06 lm and a depth of 30.43 lm to the street. The site current contains a two storey dwelling house that is parallel to Little Manly beach. The property is on an upward slope from the front to the rear of the property.

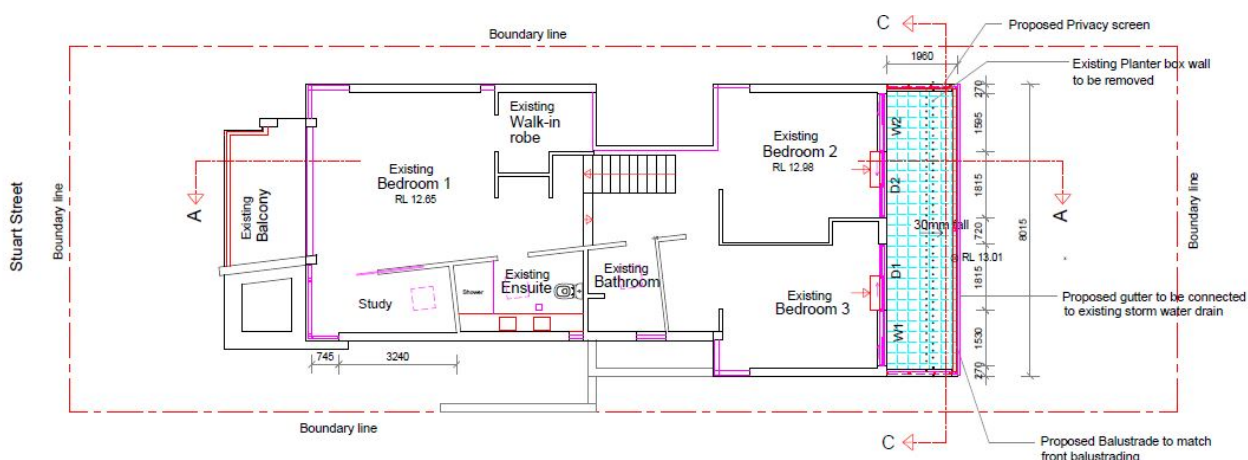
## 2.3 Site Context

The site is located within a general residential area of Manly which comprises of a mixture of different residential properties including one and two storey detached dwellings and residential flat buildings. On either side of the site is units, 49 Stuart Street has 4 units and 53 Stuart Street has 5 units.

## 3.0 PROPOSED DEVELOPMENT

The development application seeks consent for the conversion of an existing planter box at the rear end of the first floor of the property. The development does not involve any alteration to the size/dimensions of existing planter box, it is simply the removal of the inner-wall of the planter box to create an open balcony space. It also involves the installation of doors in place of the current windows that lead to the balcony space.

The development would have qualified for exempt development if not for it being located on the second floor of the property.



## 4.0 PLANNING CONSIDERATIONS

### 4.1 State Environmental Planning Policy No.55 Remediation of Land (SEPP55)

Pursuant to Clause 7 of SEPP 55, a consent authority is unable to grant development consent unless it has considered whether the land is contaminated and, if so, whether the consent authority is satisfied that the land is suitable in its contaminated state, or can be remediated to be made suitable for the purposes for which the development is proposed to be carried out.

The site displays no evidence of contamination and is suitable for its continued residential use. On this basis, the proposal is consistent with relevant objectives and matters for consideration under SEPP 55 and suitable for its proposed residential use.

#### **4.2 State Environmental Planning Policy No.55 Remediation of Land (SEPP55)**

A BASIX Certificate is exempt as cost of works is below \$50,000.00.

#### **4.3 State Environmental Planning Policy- (Coastal Management) 2018**

The site is located within the coastal zone and thus the proposal requires assessment under the provisions of State Environmental Planning Policy- (Coastal Management) 2018. The proposed development is not inconsistent with any of the Coastal Management SEPP provisions and will not have an adverse impact upon the coastal qualities or processes of the area.

#### **4.4 Manly Local Environment 2013**

The subject site is located in zone R1 General Residential Density under the provisions of Manly Local Environment 2013 and the proposal is permissible with consent of the Northern Beaches Council. The proposed alterations work may be seen to comply with the relevant clauses of the MLEP 2013 as demonstrated below.

1.2 Aims of Plan – complies

2.1 Land Use Zones - complies

2.3 Zone Objectives - complies

4.3 Height of Building - complies

4.4 Floor Space Ratio - complies

5.9 Heritage Controls – not applicable

#### **4.5 Manly Development Control Plan 2013**

The proposed alteration work has been designed in accordance with the constraints and objectives of the Manly Development Plan. An assessment of the proposed work against the controls of the Manly Development Control Plan is provided below.

## 1.7 Aims and Objectives

The aims and objectives of the Manly DCP are met in this proposal excluding the variations which will be detailed below.

## 3. General Principles of Development

### 3.1 Streetscape and Townscape

Streetscape is not a relevant consideration for the proposed works as it is at the rear end of the property. However the effect on townscape the proposed development creates is necessary to be considered.

“Objective 5) To assist in maintaining the character of the locality”

### 3.2 Heritage Considerations

The property is not listed as a Heritage site under the MLEP 2013 and as such it is not necessary to assess the heritage considerations.

### 3.3 Landscaping

As the proposed development is on the first floor of the dwelling house, landscaping is not required to be considered.

#### 3.4.1 Sunlight Access and Overshadowing

As there is no change to the dimensions of the planter box that will be converted to the balcony space and there will be no additional impacts to sunlight access or overshadowing other than what is currently generated by the planter box which is very minimal.

The privacy screening on the balcony is slated allowing the sunlight to shine through meaning that there is limited increase in shadows created.

The shadow created by the screening is also not great enough to reach the adjoining properties

#### 3.4.2 Privacy and Security



Western view from planter box





Northern view from planter box



Eastern view from planter box





North-eastern view from planter box

The proposed development has been designed with the objectives of the clause in mind.

The properties on either side of the site are residential flat buildings that are situated on larger sites and built much further onto their respective rear setbacks, meaning that there is no privacy encroachment on common outdoor open areas. The property directly behind the site, number 10 Marshall street is significantly elevated above the site, meaning there is no way for occupants using the balcony to encroach on the privacy of that property in the use of the balcony. Overall, there is very limited potential for the conversion on the balcony space to effect the privacy of adjacent and nearby development. The only potential for privacy loss is on the properties of either side of the sites windows which are visible from the balcony space. This direct view issue has been mitigated by the use of a pergola and steel privacy screen that will cover both the sides and roof of balcony, providing additional privacy for the neighbours and the occupants.

This development is an effective use of private open spaces, in line with objective 2 of 3.4 “maximise the provision of open space for recreational needs of the occupier and provide privacy and shade with extremely minimal to no impact on privacy of neighbours and as such should satisfy this clause/ succeed on the merits.

### 3.4.3 Maintenance of Views

As the alteration work is at the rear end of property, it does not disrupt any views to any from public spaces. The proposed development allows for increased view sharing of the occupants of the property of their backyard without limiting or detracting from the views of the adjoining properties.

## 4. Development Controls and Development Types

### 4.13 Floor Space Ratio (FSR)

Sub clause 4.1.3.3.”Exceptions to FSR for open balconies” stipulates balconies will not be considered as enclosed when the wall height enclosed to the extent they are within the building envelope (under 1.4m wall height) or considered by the council to have the character of a habitable room.

The balcony is not enclosed, the wall height of all 3 sides is under 1.4m and it is not capable of being considered a habitable room. The balcony therefore is not required to be considered in the FSR of the property.

#### 4.14 Setbacks (front, side and rear) and building Separation

The proposed development does not implicate the front or side setbacks as it located at the rear end of the property.

##### 4.1.4.4 Rear Setbacks

The planter box conversion, as previously stated does not involve any change to the current planter box dimensions. The previous use as a planter box however allowed for the encroachment onto the rear set back and the rear setback must be reconsidered now that it is intended to be used as a balcony space.

Sub clause 4.1.4.4 a) provides that the distance between any part of a building and the rear boundary must not be less than 8m. The distance between the rear boundary and the balcony space is 6.1 metres meaning that the development encroaches on the rear setback by 1.9m. There is no specific available variation to this clause. However 4.1.4.4 d) does provide that “rear setbacks must relate to the prevailing pattern of setbacks in the immediate vicinity to minimise, overshadowing visual privacy and view loss”. As previously stated the adjoining properties on either side of the site encroach much further onto their respective setbacks and the encroachment of 1.9m would be consistent to the immediate vicinity and enable the occupants of the property to fairly share the view, private open space and solar amenity of their backyard. Subsection 4.1.4.3 also provides that special consideration must be given on sloping sites. As provided above the site behind the property is significantly elevated above the property, meaning the encroachment into the rear setback will not affect the privacy, view of solar amenity of the neighbouring property.

#### **4.6 Variation MLEP & Environmental Planning Assessment Act (1979 ) 4.15 (3A)**

***“(3A) Development control plans If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority—***

***(b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development”***

Clause 4.6 MLEP 2013 and EP&A 4.15 (3A), provide that exceptions to development standards may be made, “to provide an appropriate degree of flexibility in applying certain development standards to particular development”. So long as it is provided that 4.6 (3):

- a) compliance with development standard is unreasonable or unnecessary in the circumstance of the case and,
- b) There are sufficient environmental planning grounds to justify contravening the development standard.

In response to 4.6 (3) a) as provided above the specific circumstances of the exact location of the encroachment, has extremely limited to no potential impact (solar, privacy and view) on neighbouring properties because of there placement surrounding the site, as such to enforce such a rule would be unnecessary and unreasonable as the minor encroachment does not possess the potential to negatively affect any of the relevant considerations of 4.1.4.

To satisfy to 4.6 (3) b), in looking at the overall objectives of the 4.14 specifically objective 2, it may be seen that there is sufficient environmental planning grounds to justify the minor adjustment to the rear setback of the property. Objective 2 provides that the purpose of the setback rules is to again provide privacy, equitable access to light and facilitating view sharing while maintaining adequate space between buildings to limit impact on views and vistas from private and public spaces. As stated above these aspects are not detracted from the adjoining properties but only added to site itself. Because of the placement of the surrounding property this addition would in fact allow for the occupants to enjoy private open space, and equitable access to their light sunshine which are currently reduced by the adjoining properties placements. Therefore in adjusting the development standards, the objectives of the clause may actually be met.

## **CONCLUSION**

This application seeks approval for alterations to an existing dwelling house. As demonstrated in this report the proposal is consistent with the aims and objectives of the Manly Local Environment Plan 2013 and the Manly DCP. The proposal does not have any detrimental impact on the amenity of the adjoining properties or the character of the locality and the minor variations requested are made on sufficient environmental planning grounds.

It is therefore considered that the proposed alterations to the existing rear of the property (planter box) at 51 Stuart Street, Manly is worthy of the consent of Council.