

**STATEMENT OF ENVIRONMENTAL EFFECTS**

**FOR PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING DWELLING INCLUDING  
A NEW ATTACHED DOUBLE GARAGE, DRIVEWAY AND CROSSING, FRONT  
RETAINING WALL AND ASSOCIATED LANDSCAPING**

**LOCATED AT**

**90 BIRKLEY ROAD, MANLY**

**FOR**

**STUART McPHAIL & JOANNA PATCHING**



**Prepared  
August 2020**

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## 1.0 Introduction

This Statement of Environmental Effects accompanies details prepared on behalf of Stuart McPhail & Joanna Patching by Action Plans, Revision A, Sheets DA00 – DA20, dated 11 August 2020, to detail the proposed construction of alterations and additions to an existing dwelling to include a new attached double garage, driveway and crossing, front retaining wall and associated landscaping at **90 Birkley Road, Manly**.

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:

- *State Environmental Planning Policy No 55 – Remediation of Land*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *Manly Local Environmental Plan 2013*
- *Manly Development Control Plan 2013 – Amendment 14*

A Pre-Lodgement Meeting was held on 6 February 2020 (No. PLM 2020/0011) to discuss the proposed development for alterations and additions to the existing dwelling including a new carport. Concern was raised with regard to the location of the carport in the front setback. The subject proposal provides a garage in place of the carport.

The proposed garage is integrated into the site design, with the new plantings to soften the built form of the development. The proposed garage is in keeping with the streetscape character, with parking structures within the front setback a common feature along Birkley Road to the south.

## 2.0 Property Description

The subject allotment is described as **90 Birkley Road, Manly**, being Lot 18, within Deposited Plan 6100 and is zoned R1 General Residential under the Manly Local Environmental Plan 2013.

The site is noted as being within Class 5 Acid Sulfate Soils Area. This matter will be discussed in further detail within the report

The subject dwelling is not heritage listed, nor is it within a heritage conservation zone.

The site is identified as being within the G4 Area on Council's Landslip Hazard Mapping. Accordingly, a Preliminary Geotechnical Assessment has been prepared by Ascent Geotechnical Consulting, Ref No. AG20180, dated 30 July 2020, and accompanies this submission.

There site is not identified as being affected by any hazards.

### 3.0 Site Description

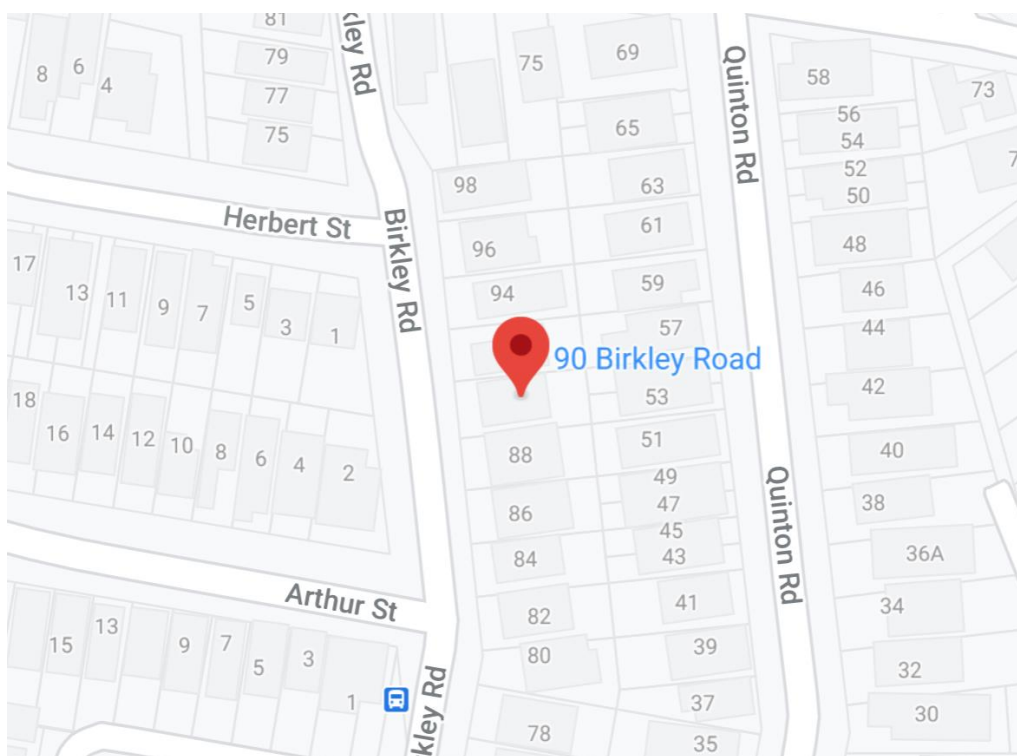
The site is located on the eastern side of Birkley Road.

The site is rectangular in shape with a width of 12.19m to Birkley Road, and a depth of 30.48m. The site has an area of 371.6m<sup>2</sup>.

The site is currently developed with a two single storey brick and clad dwelling with a tile roof.

Vehicular access is currently available to the site via an existing concrete driveway to an attached garage under the dwelling. The parking area exhibits an inadequate width to be readily used for parking and the proposal presents an improved parking option within the front setback.

The details of the site are included on the survey plan prepared by CMS Surveyors, Reference No. 18797detail, dated 6 September 2019, which accompanies the DA submission.



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



**Fig 2: View of the subject site, looking east from Birkley Road**



**Fig 3: View of the subject site, looking south-east from Birkley Road**



**Fig 4: View of the existing development immediately to the north of the subject site, looking north-east from Birkley Road**



**Fig 5: View of examples of similar parking structures within the front setback, with partly trafficable roof levels, located to the south of the subject site, looking north-east from Birkley Road**



**Fig 6: Streetscape view looking towards the subject site, including examples of similar parking structures within the front setback, with partly trafficable roof levels, located to the south of the subject site, looking north-east from Birkley Road**

#### 4.0 Surrounding Environment

The area surrounding the site is represented by a mix of development comprising one and two storey detached and semi-detached dwellings.

The adjoining developments to the north and south are similar detached two storey dwellings. The area displays a mix of low and medium density development, with the proposed new works to complement the scale and form of other single residential development in the immediate locality.

In the immediate area, garage facilities and often with trafficable roof terraces are a common feature of the development on the eastern side of Birkley Road.

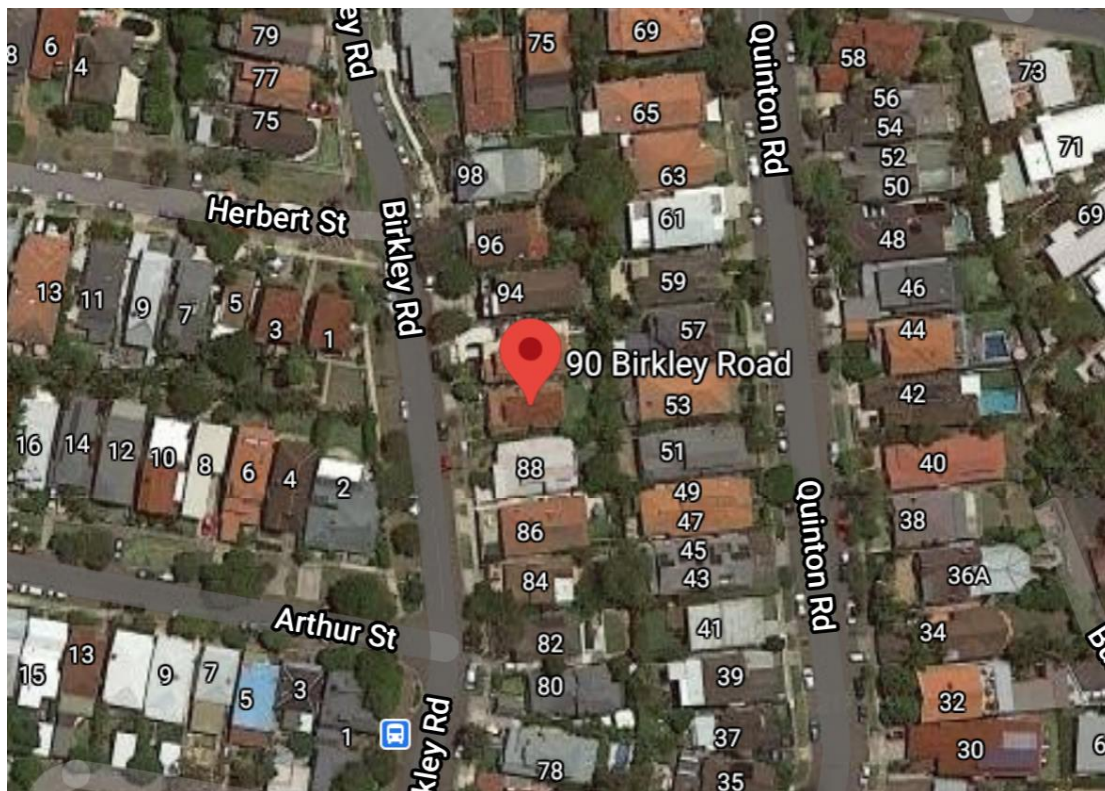


Fig 7: Aerial view of subject site  
(Source: Google Maps)

## 5.0 Proposed Development

As detailed within the accompanying architectural plans it is proposed construction of alterations and additions to an existing dwelling including a new attached double garage, driveway and crossing, front retaining wall and associated landscaping.

Currently, the dwelling has a small undersized (less than 2.3m width) and low height (less than 2m height) garage, which cannot accommodate the vehicle. The proposal intends to provide for two off street car spaces within a new double garage, which provides secure accommodation with car parking spaces in accordance with Council's requirements.



**Fig 8: Internal view of existing undersized garage**

The proposal is seeking to modify the existing car parking area to provide functional access and a suitable length for two vehicles to be parked off street. The proposal will see the demolition of existing driveway and crossing and the construction of a new driveway and crossing to the northern end of the site.

The new driveway crossing and layback will be provided in accordance with Council's standard profiles.

As discussed, the existing parking area exhibits a width of less than 2.3m and a length of less than 5m and is therefore non-complaint with Council's minimum required dimensions of a width of 3m and length of 10.8m to accommodate two vehicles.

The proposal to provide a double garage presents an improved parking option within the front setback.

The proposal will not require the removal of any significant vegetation. New planter boxes are provided to the perimeter of the proposed terrace which assist with softening and screening the development.

The new works will comprise:

**Garage Level**

- Proposed alterations and additions to existing garage level to provide for new double garage, bin store/storage, external stairs to dwelling, driveway and crossing

**Ground Floor Level**

- Proposed alterations and additions to existing ground floor level to provide for new garden terrace, planter boxes and landscaping

The proposed new alterations to the dwelling are complementary to the surrounding existing dwellings in Birkley Road, with a number of neighbouring properties (No. 76, 84, 86 and 88 Birkley Road) presenting a garage within the front setback and a large front wall, often with trafficable roofs providing outdoor terraces which can receive good solar access and amenity.

The proposal new planter boxes will enhance the streetscape appearance of the site.

The development indices for the site are noted as:

Site Area	371.6m <sup>2</sup>
Required Open Space (Area OS3) – 55% total/35% soft open space	204.38m <sup>2</sup> (55%)/71.53m <sup>2</sup> (35%)
Proposed Total Open Space	51% or 189.73m <sup>2</sup>
Proposed Soft Open Space	65% or 133.17m <sup>2</sup>

## 6.0 Zoning and Development Controls

### 6.1 State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 – Remediation of Land and in particular Clause 7(1)(a) suggests that a consent authority must not grant consent to the carrying out of any development on land unless it has considered whether the 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.

### 6.2 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The proposal has been designed to respect the water, thermal and energy standards required by BASIX. A BASIX certificate has been submitted with the development application.

### 6.3 Manly Local Environmental Plan 2013

The land is zoned R1 General Residential under the provisions of the MLEP 2013.

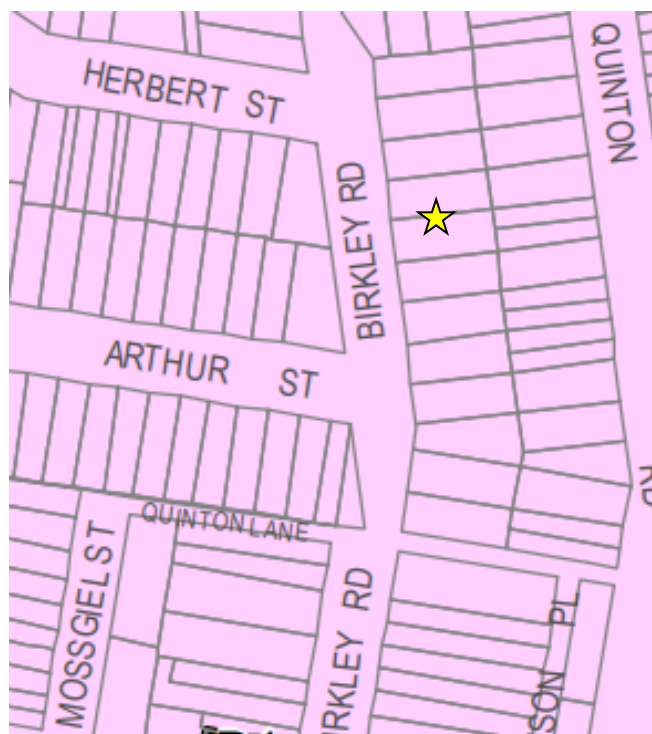


Fig 9: Extract of Manly Local Environmental Plan 2013

The development of and use of the land for residential purposes is consistent with the R1 zone objectives, which are noted as:

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

It is considered that the proposed alterations and additions to the dwelling will be consistent with the desired future character of the surrounding locality for the following reasons:

- The proposal maintains the existing built form of the dwelling and therefore maintains consistency with the existing housing within the locality.
- The proposal provides for alterations and additions that will provide for increased pedestrian and vehicular safety when entering and exiting the property.
- The proposal does not have any impact on views, solar access or amenity for the neighbouring properties.
- The site is utilised as housing and will continue to maintain the residential use.
- The proposed alterations and additions will conserve the significance of the heritage item located on the site.
- The proposal will present a single storey garage at street level which is compatible with the existing development in this portion of Birkley Street.

**Clause 4.3** provides controls relating to the 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 Manly is 8.5m. The proposed new works will see a maximum height of 3.1m which readily complies with this control.

**Clause 4.4** provides a maximum floor space ratio control of 0.6:1 for development in this locality. The existing floor space ratio will remain unchanged.

**Clause 6.1** addresses the impact of works in relation to acid sulfate soils. The proposal will see some excavation of the site in order to provide for the new double garage. It is not anticipated that acid sulfate soils will be encountered.

**Clause 6.2** relates to earthworks. The proposal will see some excavation of the site in order to accommodate the new works. Appropriate erosion and sediment controls will be carried out to ensure minimal site disturbance. The works will be carried out under the guidance of a qualified Structural Engineer. A Preliminary Geotechnical Assessment has been prepared by Ascent Geotechnical Consulting, Ref No. AG20180, dated 30 July 2020 to detail the works.

*With reference to the Australian Geomechanics Societies definitions, the existing site conditions and proposed development are considered to constitute an 'ACCEPTABLE' risk to life and a 'LOW' risk to property provided that the recommendations outlined in Table 2 are adhered to.*

The proposal therefore satisfies the provisions of this clause.

**Clause 6.8** relates to landslide risk. The proposal will see some excavation of the site in order to accommodate the new works. A Preliminary Geotechnical Assessment has been prepared by Ascent Geotechnical Consulting, Ref No. AG20180, dated 30 July 2020 to detail the works. The works will be carried out under the guidance of a qualified Structural Engineer, and the proposal therefore satisfies the provisions of this 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 – Amendment 14**

Councils 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 proposal provides for alterations and additions to an existing dwelling, including the construction of a new attached double garage, driveway and crossing, front retaining wall and associated landscaping.

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 existing height and bulk of the dwelling remains unchanged. The proposed garage is sited at street level and will present a modest single storey scale, which is complementary to existing development on Birkley Road.

The proposed landscaping will soften the built form of the dwelling and enhance the streetscape appearance of the site. The proposal will visually improve the streetscape and will provide for additional safe off street parking.

#### **Clause 3.1.1.3 – Roofs and Dormer Windows**

The proposal seeks to maintain the existing roof form.

#### **Clause 3.3 – Landscaping**

No substantial indigenous planting is to be removed to accommodate the new works. The proposal will provide for additional planting within the front yard to soften the built form of the subject building and provide privacy and amenity for the subject and neighbouring properties. The proposed new planter boxes will enhance the façade of the site when viewed from Birkley Road.

#### **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 the proposal provides for the construction of alterations and additions to the existing dwelling including the construction of a new double garage, driveway and crossing, front retaining wall and associated landscaping, which will not result in any impacts on the views, solar access, privacy or amenity currently received by neighbouring properties.

#### **Clause 3.5 – Sustainability**

The proposal has been designed to respect the water, thermal and energy standards required by BASIX. A BASIX certificate has been submitted with the development application.

#### **Clause 3.7 – Stormwater Management**

The existing stormwater arrangements remain unchanged.

## Part 4 – Residential Development Controls

### Site Area 371.6m<sup>2</sup> - Density Sub Zone D3 (250m<sup>2</sup> per lot)

#### Compliance Table

Control	Required	Proposed	Compliance
<b>Clause 4.1.1</b> Residential Density & Subdivision	Density Area D3 – 1 dwelling per 250m <sup>2</sup>	Site area is 371.6m <sup>2</sup>	Yes – existing site and dimensions are unchanged
<b>Clause 4.1.2</b> Height of Buildings	Maximum height – 8.5m  Wall height – 6.5m  Max two storeys  Roof height – 2.5m above wall height	Maximum height – <8.5m  N/A – wall height remains unchanged  Two storey dwelling maintained  N/A – existing roof form remains unchanged	Yes  N/A  Yes  N/A
<b>Clause 4.1.13</b> Floor Space Ratio (FSR)	0.6:1	N/A – remains unchanged	N/A
<b>Clause 4.1.4</b> Setbacks (front, side and rear)          Side Boundary setback – 1/3 of wall height	Relate to neighbouring sites or 6m	The new garage will present a nil setback to the front boundary, which is similar to many properties along Birkley Road and is therefore acceptable on merit.  The garage will be generously setback from the southern side boundary, however will present a nil setback to the northern side	Yes – on merit          Yes – on merit

		boundary. Many garage structures along Birkley Street present a similar form and it is therefore acceptable on merit. The new garage will present a form that is complementary to the existing pattern within the Birkley Road streetscape.	
<b>Clause 4.1.5</b> Open space and Landscaping	Area OS 3 Min 55%/35%	<p>The proposal provides an open space area of 51% of the site, with 65% of the required open space provided as deep soil landscaping.</p> <p>The soft landscaped area readily complies with this control, while the open space area presents a minor variation.</p> <p>The proposed open space area will see an improvement on existing open space area by 31.74m<sup>2</sup>. The site is limited by existing on site development and the site's small area making it difficult for designing future development that meets the control.</p>	Yes – on merit (refer to comments below)

<p><b>Clause 4.1.6</b> Parking</p>	<p>2 spaces</p>	<p>New double garage will provide on-site parking for 2 cars.</p> <p>The new driveway will provide for an improvement on vehicular access.</p> <p>The new separate pedestrian access will also see increased safety.</p>	<p>Yes</p>
<p><b>Clause 4.1.8</b> Development on Sloping Sites</p>	<p><u>Area G4 – Potential Hazards and Requirements</u></p> <p>Geotechnical assessment may be required depending on location and nature of development and man-made cut and fill.</p> <p>Residential footings are to be in accordance with AS2870.</p> <p>Potential hazards for this land include rock falls &amp; minor slumping of soil and fill materials from top of unsupported cuts onto public and private pathways, roadways and building platforms. There is little to moderate typical consequences of failure involving damage of some or part of structures (for example, to a dwelling or roadway), with part of site requiring some stabilisation works.</p>	<p>The proposal will see excavation of the site in order to accommodate the new works. A preliminary geotechnical investigation has been prepared by Ascent Geotechnical Consulting, Ref No. AG20180, dated 30 July 2020. The works will be carried out under the guidance of a qualified Structural Engineer, and the proposal therefore satisfies the provisions of this clause.</p>	<p>Yes</p>

	Large scale stabilisation works are unlikely to be required in Area G4.		
<b>Clause 4.4.5</b> Earthworks	<p>To retain the existing landscape character and limit change to topography and vegetation within the MLEP area by:</p> <p>Limiting excavation 'cut and fill' and other earthworks</p> <p>Discouraging the alteration of the natural flow of ground and surface water</p> <p>Ensuring that development not cause sedimentation to enter drainage lines and waterways</p> <p>Limiting the height of retaining walls and encouraging the planting of native plant species to limit their impact</p>	<p>The proposal will see excavation of the site in order to accommodate the new works. Appropriate erosion and sediment controls will be carried out to ensure minimal site disturbance. A Preliminary Geotechnical Investigation has been prepared by Ascent Geotechnical Consulting, Ref No. AG20180, dated 30 July 2020. The works will be carried out under the guidance of a qualified Structural Engineer. The proposal therefore satisfies the provisions of this clause.</p>	Yes

### Open Space & Landscaping

The DCP controls for the OS3 zone seek to maintain a minimum open space area of 55% of the site, with a minimum soft landscaped component of 35% of the total open space.

The proposal will seek to maintain 189.73m<sup>2</sup> or 51% of the site as open space area, with 133.17m<sup>2</sup> or 65% of the total open space area as soft landscaping.

The objectives of this clause are as follows:

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

The proposal provides for the construction of a new garage and driveway with associated landscaping. The proposal will see a 31.74m<sup>2</sup> increase in the total level of open space area and will maintain a generous area of soft landscaped area.

The introduction of the roof terrace and landscaping will assist with maintaining a sense of openness within the site.

The proposal will not require the removal of any significant vegetation on site, and new plantings are to be provided throughout the site to enhance the appearance of the site as viewed from Birkley Road.

The existing stormwater arrangements for the site will remain unchanged.

Notwithstanding the minor variation to the open space area, the proposal is considered to be in keeping with the desired outcomes of this clause and is therefore worthy of support on merit.

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

### **7.1 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.

The site is not within the Foreshores and Waterways Boundary of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

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**

It is not considered that there are any draft environmental planning instruments applying to the site.

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

The development has been designed to comply with the requirements of Manly Development Control Plan 2013 – Amendment 14.

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 the numerical development controls in the DCP as justified in this report. In particular we

consider that the variation to the open space requirements and front and side setbacks are reasonable given the proposal seeks to increase the available area of open space and soft landscaping and will present a form that will provide for increased vehicular safety and provide for increased on-site parking.

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.

The development respects the streetscape character objectives of the DCP and will provide a cohesive and sympathetic addition to the site which will make a positive contribution to the area.

**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**

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 likely 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 approval for the construction of alterations and additions to an existing dwelling, including a new attached double garage, driveway and crossing, front retaining wall and associated landscaping, is reasonable. The development will maintain a favourable bulk and scale relationship with other development in the vicinity. It is considered that the resultant development is compatible with and will complement the character of the area.

The proposal is considered to be well designed having regard to the relevant provisions of the Council's LEP and Council's Codes and Policies.

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

The subject land is currently zoned R1 General Residential under the Manly Local Environmental Plan 2013 and is considered suitable for the proposed development.

The subject site does not exhibit any significant constraint to the construction of the proposed new works.

**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 unreasonably 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.

The opportunity to provide for two off street car parking spaces, in accordance with Council requirements will ease the burden for on street car parking spaces, which is in the public interest.

## **8.0 Conclusion**

The principal objective of this development is to support the design of the construction of alterations and additions to an existing dwelling, including a new attached double garage, driveway and crossing, front retaining wall and associated landscaping, which satisfy the stated objectives of Council's Development Controls.

By maintaining our neighbour's amenity and by complementing the scale and form of other development in the immediate 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.

### **VAUGHAN MILLIGAN**

Town Planner

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