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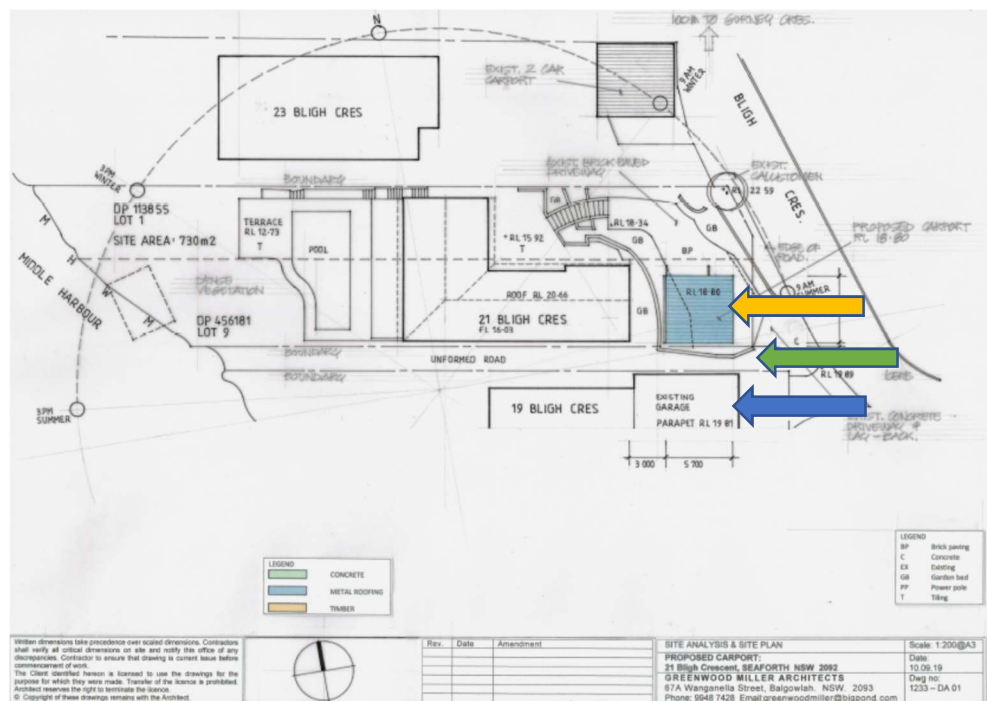
18 October 2019

1.1. Statement of Environmental Effects – Development Application for proposed Double Carport and Bin Storage at the front of the existing dwelling on the existing paved that provides access and hardstand for vehicle parking. The property comprises two allotments being Lot 1 in DP 113855 and Lot 9 DP 456181 and known as 21 Bligh Crescent Seaforth.

Owner/Client: J. and B. Curtis

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Above: Location of proposed carport – Yellow arrow; Adjoining property garage to the south – Blue arrow. Along the southern boundary is a unformed road – Green arrow.

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1.0. Introduction and Documents

1.1. Statement of Environmental Effects – Development Application for proposed Double Carport and Bin Storage at the front of the existing dwelling on the existing paved that provides access and hardstand for vehicle parking. The property comprises two allotments being Lot 1 in DP 113855 and Lot 9 DP 456181 and known as 21 Bligh Crescent Seaforth.

The drawings and documents assessed in relation to this proposal are as stated in the following table:

Document	Doc. Ref	Prepared By	Date
Site Plan and Analysis	1233-DA01	Greenwood Miller Architects	10.09.19
Floor Plan	1233-DA02	Greenwood Miller Architects	10.09.19
Elevations – West and East	1233-DA03	Greenwood Miller Architects	10.09.19
Elevations -North and South and Section	1233-DA04	Greenwood Miller Architects	10.09.19
Site Area and Landscape Area Calculations	1233-DA05	Greenwood Miller Architects	10.09.19
Shadow Diagrams 9am 21 June	1233-DA06	Greenwood Miller Architects	16.10.19
Shadow Diagrams 12pm and 3pm 21 June	1233-DA07	Greenwood Miller Architects	16.10.19
Land Survey – Level and Detail Survey	21094	Bee and Lethbridge	05.09.19
Geotechnical Assessment	2019-164	Crozier Geotechnical Consultants	14.10./19
Statement of Environmental Effects		Colco Consulting	18.10.19

1.2. This Statement of Environmental Effects (SEE) assesses the proposal in relation to planning controls and related legislation applying to this property. The Statement provides the consent authority with a reasoned basis upon which to assess the development application. Conclusion – that the application is appropriate for the site and location and consent should be issued.

2.0. Property Description

2.1. The property is described as No. 21 Bligh Crescent Seaforth and comprises two allotments being Lot 1 in DP 113855 and Lot 9 DP 456181 with a combined area of 730m². There is also an area below HWM of 31m² leased from the RMS. The property enjoys extensive views to west and south to Middle Harbour. The front boundary adjoins Bligh Crescent Seaforth and the rear boundary to mean high-water mark of Middle Harbour foreshore.



2.2. Erected on the land is a part one storey and part two-storey dwelling with tiled roof stepping down the slope of the land towards Middle Harbour. A swimming pool is located at the rear off the lower level of the dwelling. A boat shed and jetty are located on the waterfront of Middle Harbour. The area adjacent to Bligh Crescent is paved and provides access from the road and a hardstand area for car parking. The property enjoys extensive view of Middle Harbour waterway and to Sugarloaf Point and Castlecrag opposite. Allotments in this area are

steeply sloping to the south and west down to Middle Harbour. The proposed carport is to be erected on the existing hard paved area.

2.3. The land is zoned under the Manly Local Environmental Plan 2013 (MLEP 2013) as Zone E3 Environmental Management with the principal MLEP development standards being:

MLEP Principal Development Standard and Clause		Requirement	Comment
4.1	Minimum Lot Size	1150m ²	730m ² -Existing - No change
4.3	Height of buildings	8.5 metres	Complies
4.4	Floor Space Ratio	0.4:1	Complies – No change-carports excluded from FSR.

3.0. Site Analysis and Locality Analysis – Surrounding Development

3.1. The property is located on the western (low) side of Bligh Crescent and is accessed from Bligh Crescent, a reasonably steep, narrow and winding road with limited parking only available in the street. For details of the property RLs refer to clause 3.3 and the extract from the detailed survey report below.

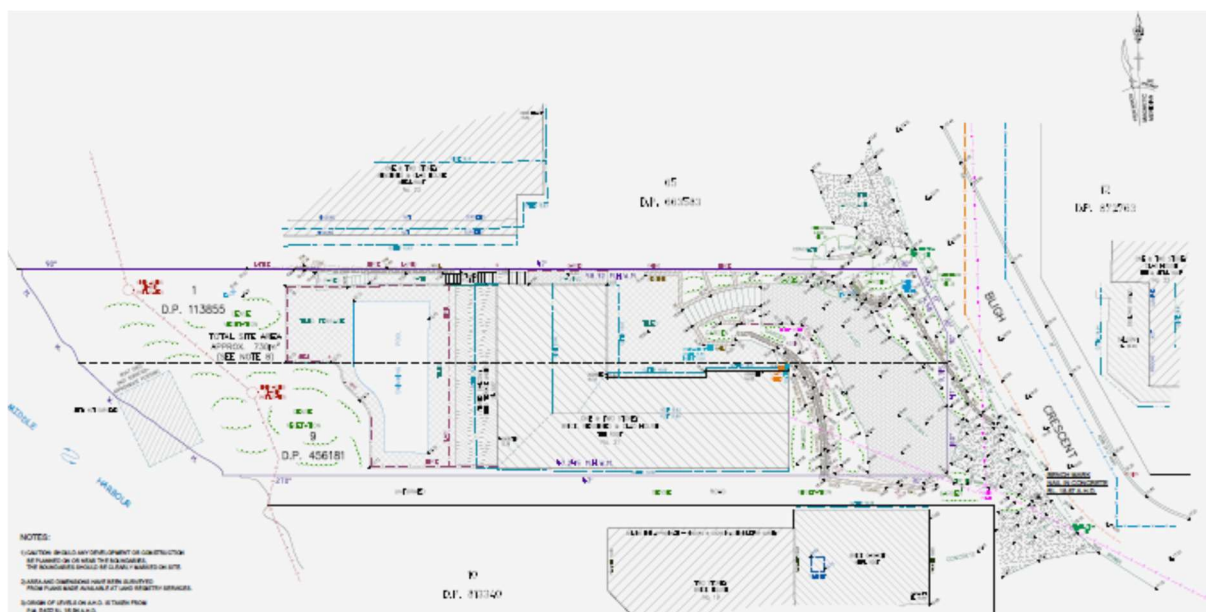
3.2. Site Dimensions and RLs.

The land has a frontage to Bligh Crescent of 9.315m and 4.58m (13.895m) with an effective width of approximately 13.5m with the rear boundary defined by the mean high-water mark on Middle Harbour. The northern side boundary has a length of 58.32m MHWM and the southern boundary being 47.245 MHWM.

An unformed road runs along the southern boundary from east to west (from Bligh Crescent to the harbour).

3.3. The site is located on an east-west axis and falls significantly towards the rear boundary at mean high water mark to Middle Harbour foreshore with RLs as follows:

North eastern front corner	RL22.09
South Eastern front corner	RL18.95
North west and south west corners	MHWM RL00
RLs of the location of the proposed carport	Approximately RL18.50 to RL18.8 (existing paving)
Towards the rear of the site the land drops down from approximately. RL8.00	



Above -Extract from Detailed Survey. Note; The southern boundary adjoins an unformed road.

3.4. Views. The site and adjoining properties enjoy significant views of Middle Harbour and beyond to Sugarloaf point and Castlecrag. The dwelling opposite on the high side of Bligh Crescent is located significantly higher than the subject property – refer to photo below. In clause 3.5.

3.5. Surrounding properties – Bligh Crescent is a steep sealed road that winds down the sloping topography. On street parking is limited. Surrounding properties gain access off Bligh Crescent in locations where access is practical. Dwellings along both sides of the street are significant in size, bulk and scale being two and three storeys of varied architectural styles. Dwellings on the low side are governed by the steeply sloping sites with relatively large dwellings located towards the top of the sites near Bligh Crescent. Dwellings on the low side have carports and garages located either on the front alignments or within front setback areas due to the significant site and road constraints. Refer to photos below showing subject property 21 Bligh Crescent; the property opposite; and photos of properties along the lower side of Bligh Crescent with structures (including garages and carports on the front alignment or within the front setback areas.



Above – Photo 1 - Subject property access area from Bligh Crescent and approximate location of proposed carport.



Above – Photo 2 - House opposite demonstrating the terrace deck significantly above the height of proposed carport. In our opinion there is no impact on existing views. The photo also demonstrates the steep gradient of Bligh Crescent at this point.



Above – Photos 3&4 - Lower part of Bligh Crescent demonstrating structures on the front boundary/within the front setbacks



Above – Photos 5&6 Bligh Crescent demonstrating structures on the front boundary/within the front setbacks



Above – Photos 7&8 Bligh/Gurney Crescent demonstrating structures on the front boundary/within the front setbacks

Summary: The immediate locality is characterised by steeply sloping allotments rising above and below Bligh Crescent with views to Middle Harbour and beyond; and:

- Dwellings of a variety of architectural styles and size with recent developments replacing older houses with substantial multi-level dwellings located close to front boundaries.
- Location of garages and carports either on the front alignment or within the front setback area; particularly along the low side of Bligh Crescent – due to the steep terrain and the nature of the narrow and relatively steep constructed road.

3.6. Geotechnical – Crozier Geotechnical Consultants Preliminary Report

The geotechnical assessment commissioned from Crozier Geotechnical Consultants dated 14 October 2019 concludes as follows:

“6. Assessment:

Based on the above items and on Councils flow chart check list – does the present site or proposed development contain:

- History of Landslip No
- Proposed Excavation/Fill >2m No
- Site developed Yes

- Existing Fill >1m Possible
- Site Steeper than 1V:4H In parts yes.
- Existing Excavation >2m No
- Natural Cliffs >3m No

It is considered that a detailed Geotechnical Report with Landslip Risk Assessment is not required for this Development.

However, it is recommended that the carport structure be founded via pier footings extended to bedrock so as to prevent any loading to the existing retaining wall located to the west and south of the proposed development. All footings require geotechnical inspection to confirm the insitu nature of the foundation."

There are no apparent geotechnical issues.

3.7. Foreshore Building Line



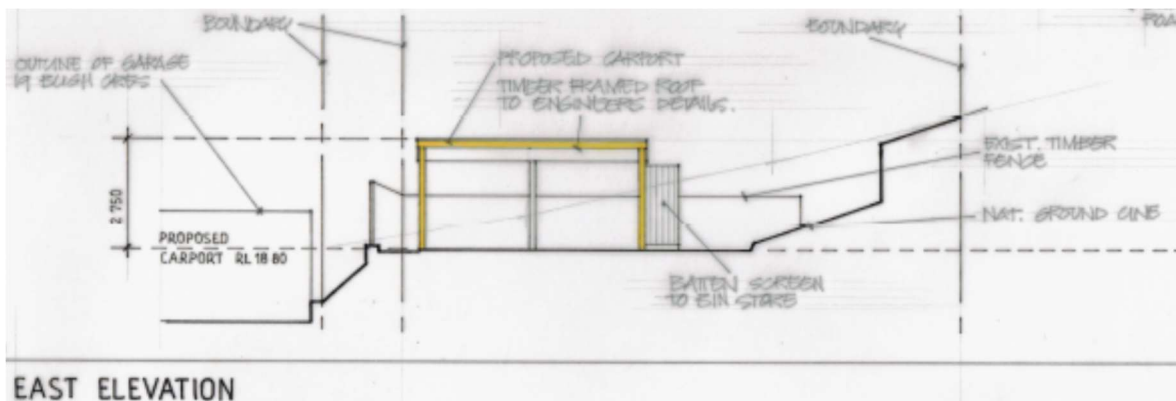
The proposed carport is an open structure located at the front of the property and well clear of the Foreshore Building Line.

3.8. Biodiversity

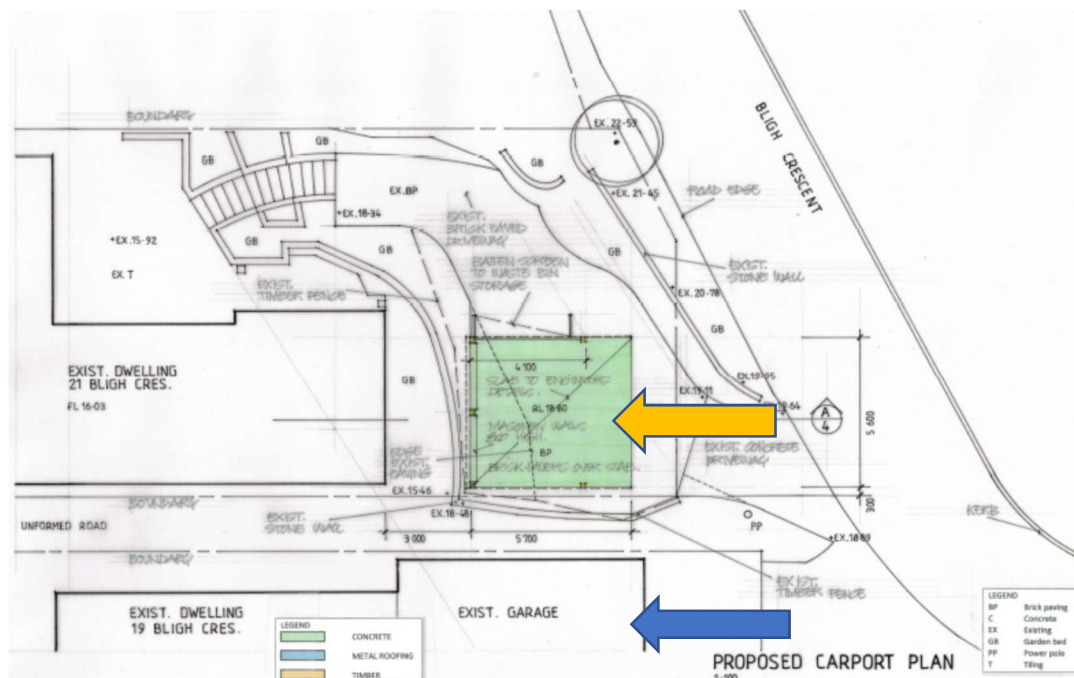
The site is located within the Manly LEP prescribed Biodiversity area as indicated on the MLEP Biodiversity Map. However, we consider that the location of the proposed open sided carport on an area that is already paved, cannot create any biodiversity issues. A Biodiversity assessment is not required.

4.0. Proposed Development

4.1. It is proposed to construct an open double carport with attached Bin area located towards the front of the land utilising the existing driveway and hardstand paved area that currently provides access and vehicle parking. The proposal is a simple open sided structure with flat styled roof as indicated in the development application drawings. The existing road access and crossing are retained. Refer to East elevation and location drawing extracts below.



Above – Proposed open structure carport East elevation to Bligh Crescent



Above – Proposed location of carport in relation to Bligh Crescent (yellow arrow) and the existing garage on the adjoining property to the south (No. 19) (blue arrow); and the adjoining unformed road (green arrow).

4.2. Calculations – Open Space/Landscaping area – refer to architect's Drawing 1233-DA5. **NOTE: The proposed carport will occupy land already paved.**

	Required/Existing	Provided/Proposed
Site area existing	730m ²	No change
Open Space existing as calculated in accord with the DCP	495.9m ² =67.9%	
Open Space Area required = 60% of site area (730m ² x60%)	438m ²	485.3m ² =66.5% ^{m2}
Open Space above ground		168.3m ²
Landscape area required = 40% of OSA (40% x 438m ²)	175.2m ²	196.1m ² =40.5%
Private Open Space required – 18m ² per dwelling - Proposed		>18m ² - unchanged

5.0. Planning Controls and Other Legislation Relevant to the Site (NOTE: Compliance Assessment tables in paragraph 6.0).

5.1. The following planning controls apply to the property:

- Environmental Planning and Assessment Act 1979 No 203 Section 4.15 Evaluation – Statutory document.
- Sydney Regional Plan (Sydney Harbour Catchment) 2005 (SEPP) and DCP – Statutory document
- Manly Local Environmental Plan 2013 (MLEP) – Local planning statutory document.
- Manly Development Control Plan 2013 (MDCP) – Supports the MLEP as a guidance document.

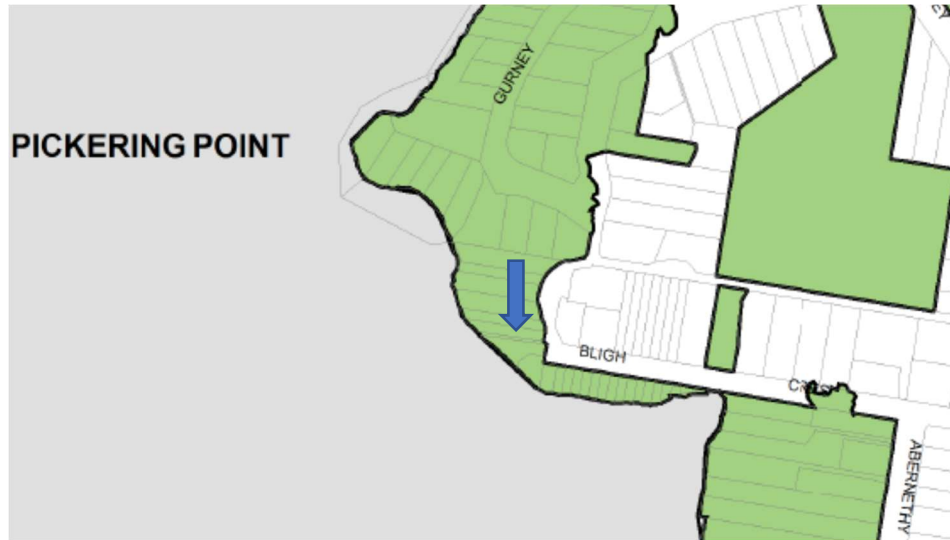
5.2. Manly Local Environmental Plan - The following MLEP primary controls apply to the property:

- Land Zoning Map – E3 Environmental Management
- Lot size minimum – 1150m²
- Floor Space Ratio (FSR) – 0.40:1 (40%)
- Height of Buildings Map – 8.5 metres
- Number of storeys – 2
- Wall height – 8 metres.
- Biodiversity area
- Foreshore Scenic Protection area
- Foreshore Building Line (refer to map extract below)
- Heritage conservation – Area 11 adjacent to Middle Harbour.
- Landslip – The property is located in Zone C of the Landslip Potential Hazards map.

- Acid Sulfate Soils – Class 5. Acid sulfate soils are not typically found in Class 5 areas.

5.2.1. Foreshore Building Line Map – Extract – Refer to clause 3.6. The property is affected by the Foreshore Building Line; however, the proposed development is located at the top of the allotment near Bligh Crescent and has no impact on the Foreshore Building Line.

5.2.2. Biodiversity Map – Extract – Blue arrow locates subject site



The subject site itself is highly modified over the years to accommodate the existing structures, with the dwelling, pool and structures primarily in the lower part of the site stepping down to Middle Harbour with the top portion of the site near Bligh Crescent paved where the carport is proposed. On the basis of available information, this area does not represent known habitat for threatened species or important habitat for native flora or fauna. Given the proposed location of the carport at the top of the lot near Bligh Crescent with the location already paved, it is considered the proposal is consistent with Manly LEP Clause 6.5 (Terrestrial Biodiversity). Landscaping in this area should be with Native plants and ensure no planting of environmental weeds.

5.2.3. SEPP 55 - Remediation of Land Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no recorded prior land uses. The location of the carport at the top of the site near Bligh Crescent and with the area already paved and very little excavation proposed for footings only, it is considered the site poses no risk of contamination.

Therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

5.3. Manly Development Control Plan - The following MDCP primary controls apply as a guide to development.

Note: A development control plan is a second-tier planning document with its degree of importance significantly below that of an LEP. Basically: A DCP provides design guidelines to support the applicable LEP; A development is required to comply with the relevant LEP; however, the DCP is to provide guidance and is to be flexibly applied. A proposal should be compliant with the LEP and be generally consistent with a relevant DCP. A failure to strictly comply with the standards in a DCP is not, of itself, a reason for refusing an otherwise LEP compliant development. Instead, the consent authority should consider alternative solutions which generally achieve the objects of the DCP.

5.3.1. Manly DCP Primary guideline controls :

- Residential density – Schedule 1 Map “A” = Density Area D9 - 1 unit per 1150m² – (Existing lot and no change proposed)
- Open Space Area – Schedule 1 Map “B” = Open Space Area OS4 = 60 of area – (Proposal is located on existing hard paved area – no change)
- Open Space - Landscaped – Min. 40% of Total Open Space – (Complies)
- Open Space - Above ground – Max. 25% of Total Open Space – (Complies)
- Open Space – Private – 18m² – (Complies)

- Number of Endemic Trees – 3 – (No change to existing)
- Foreshore Scenic Protection Area - (No impact)
- Maximum wall height – 7m
- Number of storeys – 2
- Max. roof height – 2.5m
- Front setback – 6m or streetscape (Note: Does not apply to a battleaxe lot).
- Side setback – one third wall height with minimum 900mm and some exceptions allowing structures on boundaries.
- Rear setback – 8m. (Note: Does not necessarily apply to battleaxe allotments when setbacks need to be assessed on their merit with regard to adjoining properties).
- Car Parking – 2 spaces
- Excavation – Generally 1m
- Geotech Landslip Hazard – (Area G1 – Steeper slopes generally near coastal or harbourside areas, Slopes > 25 degrees. Preliminary geotechnical assessment provided)

6.0. Assessment of Proposal against Planning Controls – Assessment Tables

6.1. Environmental Planning and Assessment Act 1979 No 203 - Section 4.15 Evaluation (previously s79C)

Section 4.15 of the EP&A Act details the relevant matters that a consent authority is to consider in determining a development application in summary as follows:

(a) The provisions of:

1. Any environmental planning instrument, and
2. Any proposed instrument that is or has been the subject of public consultation and notified to the consent authority.
3. Any development control plan, and
4. Any planning agreement entered into under Section 7.4, or any such draft planning agreement that a developer has offered to enter into under section 7.4, and
5. The regulations (to the extent they prescribe matters etc) that apply to the land to which the development application relates
6. Any coastal zone management plan within the meaning of the Coastal Protection Act 1979 that apply to the land.

(b) The likely impacts of that development on the natural and built environments and social and economic impacts in the locality.

(c) The suitability of the site for development.

(d) Any submission made in accordance with the Act or regulations.

(e) The public interest.

Refer also to clause 4.15 section (2) Compliance with non-discretionary development standards; (3) Instrument or regulation contains non-discretionary development standards, (3A) Development Control Plans not to require more onerous standards with respect to a development etc.

6.1.1. Environmental Planning and Assessment Act Section 4.15 (previously 79C) – Assessment Table

Proposed – Construct a double carport with attached Bin area located towards the front of the land utilising the existing driveway and hardstand paved area that currently provides access and vehicle parking. The proposal is a simple open sided structure with flat styled roof as indicated in the development application drawings. The existing road access and crossing are retained.

EP&A ACT 1979 SECTION 4.15 EVALUATION (PREVIOUS S79C)		
Planning Control	Instrument/Control	Comment
Any environmental planning instrument.	MLEP 2013 - Zone E3 Environmental Management. Permits Dwelling houses and includes residential garages, carports swimming pools and other structures - with consent. Objectives of zone • To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.	1. Proposed development is permissible, complies with the zoning and in accord with the LEP objectives and numerical controls with the setbacks being in accordance with prevailing setbacks. 2. There are no apparent unsuitable site issues. 3. Compliance with planning controls is assessed within accompanying tables. 4. The site is suitable for the development.

	<ul style="list-style-type: none"> • To provide for a limited range of development that does not have an adverse effect on those values. • To protect tree canopies and provide for low impact residential uses that does not dominate the natural scenic qualities of the foreshore. • To ensure that development does not negatively impact on nearby foreshores, significant geological features and bushland, including loss of natural vegetation. • To encourage revegetation and rehabilitation of the immediate foreshore, where appropriate, and minimise the impact of hard surfaces and associated pollutants in stormwater runoff on the ecological characteristics of the locality, including water quality. • To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses. 	
Any proposed instrument that is or has been the subject of public consultation and notified to the consent authority.	None applicable	
Any development control plan	Manly Development Control Plan 2013(MDCP)	Complies with the principle guiding controls and objectives.
Any planning agreement that has been entered into under Section 7.4	None applicable	
The regulations (to the extent that they prescribe matters for the purposes of this paragraph)	None applicable	
The likely impacts of the development including environmental impacts on both the natural and built environments and social and economic impacts in the locality		<p>1. The proposal is a simple form which is sympathetic to the site and the locality and complies with the MLEP planning objectives relative to the site, neighbouring properties and the locality.</p> <p>2. No apparent unsuitable site issues or negative environmental impacts.</p>
Suitability of Site for the development		The site is suitable for development. The Geotechnical Assessment confirms the site is suitable for the development subject to compliance with the recommendation in that report. Refer to clause 3.6 of this Statement.
Any submission made in accordance with the Act or Regulations.		Council will consider any submissions received following notification.
The public interest.		1. The development is in the public interest in providing roofed parking for two off-street cars in a simple architectural form that has no negative environmental impact.
<p><u>Assessment Conclusion – EP&A Act</u></p> <p>The proposal complies with the requirements of the Environmental Planning and Assessment Act Section 4.15 Evaluation; and is considered appropriate redevelopment for the land. Refer to the following assessment tables.</p>		

6.2. Sydney Regional Plan (Sydney Harbour Catchment) 2005 (SREPP) and Development Control Plan

Overview: The planning principles are contained within the SREP and generally - development is to protect and, where practicable, improve the hydrological, ecological and geomorphological processes on which the health of the catchment depends, (b) the natural assets of the catchment are to be maintained and, where feasible, restored for their scenic and cultural values and their biodiversity and geodiversity. Relevant DCP controls for the subject site are clauses 2.2, 3.4, 4.2, 4.4 and 4.5 assessed in the following Table.

2.2 GENERAL AIMS The overall purpose of the performance criteria is to conserve biological diversity within and around Sydney Harbour and its tributaries.	Criteria - to ensure that: <ul style="list-style-type: none"> • ecological communities, particularly those which form wildlife habitats, are protected and where feasible enhanced; • development is sited to retain native vegetation, wetlands and natural foreshores; • development is accompanied by revegetation and rehabilitation of degraded foreshores, where appropriate; • development does not impact adversely on water quality. 	1. The proposed development is a simple open architectural form located at the top of the steeply sloping site a significant distance from the harbour. 2. The proposal is consistent with the requirements of the SREP and DCP.
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6.3. Manly Local Environmental Plan 2013 –Assessment Table for Applicable LEP Controls for the property.

Proposed – Construct a double carport with attached Bin area located towards the front of the land utilising the existing driveway and hardstand paved area providing access and vehicle parking. The proposal is a simple open sided structure with flat styled roof as indicated in the development application drawings. The existing road access and crossing are retained.

Planning Control	Zoning/Control	Comply	Comment
Manly Local Environmental Plan 2013	<p>Zone E3 – Environmental Management. Permits dwelling houses and includes residential garaging, carports swimming pools and other structures - with consent.</p> <p>Objectives of zone</p> <ul style="list-style-type: none"> • To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values. • To provide for a limited range of development that does not have an adverse effect on those values. • To protect tree canopies and provide for low impact residential uses that does not dominate the natural scenic qualities of the foreshore. • To ensure that development does not negatively impact on nearby foreshores, significant geological features and bushland, including loss of natural vegetation. • To encourage revegetation and rehabilitation of the immediate foreshore, where appropriate, and minimise impact of hard surfaces and associated pollutants in stormwater runoff on the ecological characteristics of the locality, including water quality. • To ensure that the height and bulk of any proposed buildings or structures have regard to existing vegetation, topography and surrounding land uses. 	YES	The development proposed is minor in nature and accords with the MLEP Zone objectives.
PART 4-PRINCIPAL DEVELOPMENT STANDARDS			
4.1. Minimum Lot Size	Minimum lot area for the locality is 1150m ² other than for existing lots.	YES	Existing allotments are excluded from the current minimum area in the MLEP.
4.3. Height of Buildings	Maximum building height not to exceed the height control shown for the land on the height of buildings map. = 8.5m.	YES	
4.4. Floor Space Ratio	<p>Maximum floor space ratio not to exceed the FSR shown for the land on the Floor Space ratio map. The FSR for this site = 0.40:1.</p> <p>Objectives include:</p> <ul style="list-style-type: none"> -Bulk and scale of development is consistent with existing and desired streetscape character. -Control building density and bulk in relation to site area to ensure development does not obscure important landscape and township features. -Maintain an appropriate visual relationship between new development and the existing character and landscape of the area. 	YES/NA	The floor space remains unchanged as carports are excluded from FSR calculations.

	-Minimise adverse environmental impacts on the use or enjoyment of adjoining land and the public domain.		
PART 5-MISCELLANEOUS PROVISIONS			Not applicable
PART 6-ADDITIONAL LOCAL PROVISIONS			
5.7. Development below Mean High Water Mark		N/A	No proposed works within the vicinity of the water area.
5.10. Heritage Conservation		N/A	The site is identified in the MLEP as being impacted by Item I1 – Manly municipal boundary adjacent to the Harbour. The proposal does not involve any work on or near the boundary adjoining the Harbour.
6.1. Acid Sulfate Soils	Classified in Council Soil Map as Class 5	YES	Minimal excavation only proposed for footings.
6.2. Earthworks	Not to have a detrimental effect on environmental functions and processes, neighbouring uses.	YES	Minimal excavation only required for footings
6.5. Terrestrial Biodiversity	Applies to land identified as “Biodiversity” on the Terrestrial Biodiversity Map.	YES	The proposed carport is located on the existing hard paved area located at the top of the steeply sloping land adjacent to Bligh Crescent. There can be no impact beyond existing.
6.9. Manly Foreshore Scenic Protection Area	Protect visual aesthetic amenity and views to and from Middle Harbour, the Pacific Ocean and the foreshore in Manly. Assessment of the visual impact of any development to the waterways and foreshores.	YES	1. The site is located in the Foreshore Scenic Protection Area. 2. The proposed carport is located on the existing hard paved area located at the top of the steeply sloping land adjacent to Bligh Crescent. Only a small area of the roof will be visible from parts of Middle Harbour with no apparent visible intrusion. 3. There is no negative impact.
6.10. Limited Development on Foreshore area		N/A	The proposed carport is located on the existing hard paved area located at the top of the steeply sloping land adjacent to Bligh Crescent and not in the vicinity of the foreshore.
6.12. Essential Services	Be satisfied that essential services are available.	YES	No change to existing available services.
<p><u>Assessment Conclusion - Manly LEP 2013</u></p> <p>1. The proposed development is permissible and complies with the MLEP controls and objectives.</p> <p>2. The proposed development is for a minor structure with setbacks in accordance with prevailing setbacks along the low side of Bligh Crescent. The setbacks are considered appropriate and compatible with the MLEP; existing street pattern and locality and should be accepted by the consent authority. The carport proposed has no negative environmental impacts.</p>			

6.4. Manly Development Control Plan 2013 (DCP) Compliance Table – Relevant controls and objectives.

6.4.1. What is a DCP? The purpose and authority of development control plans was re-determined in legislation effective from 1 March 2018 – Environmental Planning and Assessment Act 1979 (2018) - Division 3.6.

“Division 3.6 Development control plans (DCPs)

3.42 Purpose and status of development control plans (cf previous s 74BA)

(1) The principal purpose of a development control plan is to provide guidance on the following matters to the persons proposing to carry out development to which this Part applies and to the consent authority for any such development:

- (a) giving effect to the aims of any environmental planning instrument that applies to the development,*
- (b) facilitating development that is permissible under any such instrument,*
- (c) achieving the objectives of land zones under any such instrument.*

The provisions of a development control plan made for that purpose are not statutory requirements.

(2) The other purpose of a development control plan is to make provisions of the kind referred to in section 3.43(1) (b)–(e).

(3) Subsection (1) does not affect any requirement under Division 4.5 in relation to complying development.”

“Part 4 Development assessment and consent

(2) Compliance with non-discretionary development standards—development other than complying development *If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:*

(a) is not entitled to take those standards into further consideration in determining the development application, and

(b) must not refuse the application on the ground that the development does not comply with those standards, and

(c) must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards,

and the discretion of the consent authority under this section and section 4.16 is limited accordingly.

(3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:

(a) subsection (2) does not apply and the discretion of the consent authority under this section and section 4.16 is not limited as referred to in that subsection, and

(b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.

In summary, a development control plan is a second-tier planning document with its degree of importance significantly below that of an LEP. Basically:

1. A DCP provides design guidelines to support the applicable LEP.
2. A development is required to comply with the relevant LEP; however, the DCP is only be there to provide guidance and is to be flexibly applied.
3. A proposal should be compliant with the LEP and be generally consistent with a relevant DCP.
4. A failure to strictly comply with the standards in a DCP is not, of itself, a reason for refusing an otherwise LEP compliant development. Instead, the consent authority should consider alternative solutions which generally achieve the objects of the DCP.

6.4.2. Manly Development Control Plan 2013 –Assessment Table for Applicable LEP Controls for the property.

Proposed – Construct a double carport with attached Bin area located towards the front of the land utilising the existing driveway and hardstand paved area providing access and vehicle parking. The proposal is a simple open sided structure with flat styled roof as indicated in the development application drawings. The existing road access and crossing are retained.

MDCP Control	Control Objective/Standard	Comply	Comment
PART 3 - GENERAL PRINCIPLES OF DEVELOPMENT			
3.1.1 Streetscape Residential Areas	Development should recognise predominant streetscape qualities, such as building form, scale, patterns, materials, colours and vegetation which contribute to the character of the local area.	YES	1. The subject property fronts Bligh Crescent, a relatively steep road, with the site falling significantly below the road to meet Middle Harbour. Due to the steep slope of properties on the low side of Bligh Crescent, they all provide off-street parking facilities on or close to the front boundaries. Refer to photos in clause 3.5 of this Statement which demonstrate this. <u>2. Dwellings in the area are of a variety of architectural styles and size</u> with recent developments replacing older houses with substantial multi-level dwellings. <u>The location of garages and carports are either on the front alignment or within the front setback area;</u> particularly along the low side of Bligh Crescent

			<p>– due to the steep terrain and the nature of the narrow and relatively steep constructed road.</p> <p>3. The proposal locates an open style carport located reasonably near the front boundary set back generally in accord with prevailing setbacks to be constructed on an area currently paved and used to park vehicles. Immediately adjoining the southern boundary is an unformed road.</p> <p>4. The proposal has no impact on the streetscape nor any nearby property.</p>
3.1.1.2 Front Fences and Gates	Should reflect the character the fencing characteristics of the locality particularly those of adjacent properties. Be constructed in materials that complement the architectural style and period of the dwelling and improve the streetscape.	NA	
3.3. Landscaping 3.3.1. Landscape Design.	<p><u>Objectives:</u></p> <ul style="list-style-type: none"> - Encourage appropriate tree planting and maintenance of existing vegetation. - Retain and augment important landscape features and vegetation remnant populations of native flora and fauna. 	YES	Existing landscaping is retained. There is no change to existing landscaping as the location of the structure is on existing paved ground.
3.3.2. Tree Preservation	Protect and conserve the natural environment. Protect and prevent urban bushland and clearing of remnant and/or rehabilitated riparian land.	YES	No change
3.4. Amenity (views, overshadowing, overlooking privacy, noise	<p>1. Protect amenity of existing and future residents and minimise the impact of new development on privacy, views, solar access and general amenity of adjoining and nearby residents.</p> <p>2. Maximise open space for recreation and provide privacy and shade</p>	YES	<p>1. There is a very small increase in shadowing of neighbouring property to the south which, however, the impact is well within the DCP control and objectives. Refer to architect's certified shadow diagrams.</p> <p>2. Privacy and noise – no change to existing as the proposal merely constructs a covered carport where vehicles currently park.</p> <p>3. The proposal complies with the DCP objectives; no negative impacts.</p>
3.4.1 Sunlight Access and Overshadowing. 3.4.1.1 Adjoining open space 3.4.1.2 Solar access into Living Rooms of Adjacent Properties.	<p>Objectives –</p> <ol style="list-style-type: none"> 1. Provide equitable access to light and sunshine. 2. To allow adequate sunlight to penetrate private open spaces and windows to the living spaces/habitable rooms of both the development and the adjoining properties. 3. Maximise penetration of sunlight including mid-winter sunlight to the windows, living rooms and to principal outdoor areas – <u>including</u> maximising setbacks on the southern side of developments to encourage solar penetration into properties to the south. 4. New development must not eliminate more than one third of the existing sunlight accessing the private open space of adjacent properties. 5. Solar access- sunlight to the windows or glazed doors to living rooms of adjacent properties. Must maintain sunlight to buildings on an east/west access of minimum 2 hours from 9am to 3pm on 21 June. 6. Adjacent buildings with an east-west orientation, the level of solar access presently enjoyed must be maintained to windows or glazed doors for a period of at least 2 hours from 9am to 3pm on 21 June. 	YES	<p>1. There is a very small increase in shadowing of neighbouring property to the south which, however, the impact is well within the DCP control and objectives. Refer to architect's certified shadow diagrams.</p> <p>2. Privacy and noise – no change to existing as the proposal merely constructs a covered carport where vehicles currently park.</p> <p>3. The proposal complies with the DCP objectives; no negative impacts. Refer to architect's certified shadow drawings.</p>
3.4.2 Privacy and Security	Minimise loss of privacy (both visual and acoustical) to adjacent development; 1. Mitigating direct viewing between windows and/or outdoor living areas of adjacent buildings.	YES	No change to existing.

	<p>2. Use narrow and translucent or obscure glass windows.</p> <p>3. When close to boundaries, windows must be off-set from those in adjacent buildings to restrict direct viewing and to mitigate impacts on privacy.</p> <p>4. Provide screens to balconies and terraces.</p>		
3.4.3 Maintenance of views – View Sharing.	<p>1. Provide for view sharing for both existing and proposed development and existing and future Manly residents.</p> <p>2. Minimise disruption to views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings</p> <p>3. Minimise loss of views, including accumulated view loss “view creep” whilst recognising development may take place in accordance with the other provisions of the DCP.</p> <p>Assessment from standing position 1.6 metres above floor level from within the main living room areas and associated terraces/balconies.</p>	YES	<p>1. We have visited the house opposite on the high side of Bligh Crescent and taken photos from the front terrace area. There is no loss of views to the west or south. In applying the NSW land and Environment Court planning principles, we conclude the proposal does not impact on existing views from nearby properties. The property immediately opposite on the high side of Bligh Crescent (No. 22) sits significantly above the road and above property No. 21 Bligh Crescent.</p> <p>2. In our opinion, the proposed development is consistent with the relevant objectives of WDCP and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. The principles of view sharing are achieved.</p>
3.5. Sustainability	There are 11 objectives encouraging ecological sustainability.	N/A	
3.6. Accessibility		N/A	
3.7. Stormwater management	<p>Manage urban stormwater within the developed site without degrading water quality of the catchment or cause erosion and sedimentation.</p> <p>Manage construction sites.</p> <p>Promote ground infiltration of stormwater and encourage stormwater detention, collecting and recycling.</p>	YES	No increase in stormwater run-off. No change to existing situation as the area of the proposed carport is already hard paved other than for a small area of roofing. All stormwater to be discharged to existing.
3.8. Waste Management	Encourage ongoing minimization and management of waste and storage of waste bins. Single dwellings.	YES	
PART 4 - DEVELOPMENT CONTROLS AND TYPES			
4.1.1 Dwelling Density and Subdivision	Schedule 1 Map A Density Area/Minimum lot size = 1150m ² per dwelling.	N/A	Existing allotment - No changes proposed.
4.1.2 Height of Buildings	Maximum building height not to exceed the height control shown for the land on the height of buildings map. The maximum height for this land is 8.5m.	YES	
4.1.2.1 Wall Height	The MLEP defines the basic wall height numerical control and the MDCP sets as a guide variation on wall heights relative to the slope of the land and shown in DCP Figure 28.	YES	
4.1.3. Floor Space Ratio (FSR) and 4.1.3.1.	<p>MLEP determined at 0.4:1. Also see provisions in LEP clause 4.6 for exceptions.</p> <p>DCP – Objectives:</p> <p>1. Ensure scale of development does not obscure important landscape features.</p> <p>2. Minimise disruption to views to adjacent and nearby development.</p> <p>3. Allow adequate sunlight to penetrate both private open spaces within the development site and private open spaces and windows to the living spaces of adjacent residential development.</p>	YES/N/A	Carports are excluded from FSR calculations and therefore no change to existing.
4.1.4. Setbacks (front, side and rear); 4.1.4.2 Side setbacks and secondary street frontages;	<p>1. Objectives- Provide privacy, equitable access to light, sunshine and air movement; and maintain adequate space between buildings.</p> <p>2. Setbacks between any part of a building and the side boundary must not be less than</p>	YES/NO	<p><u>1. Front setback</u> – The proposed front setback from the alignment of Bligh Crescent (part of which is unconstructed) is 1650mm and generally conforms with existing setbacks along the low side of Bligh Crescent and is setback further to some garage and carport structures in</p>

4.1.4.3 Variations to side setbacks In Residential Density Areas D3 to D9	<p>one third of the height of the adjacent external wall of the proposed building.</p> <p>3. Minor projections permitted if demonstrated that there will be no adverse impact on adjoining properties including loss of privacy.</p> <p>4. <u>Provision is made to allow building along a side boundary (clause 4.1.4.3 in residential density areas D3 to D9. The subject property is located in Density D9.</u></p> <p>5. <u>Provision is also made to allow variations on side setbacks and secondary street frontage. The subject property is located with an unformed road along the southern boundary.</u></p>		<p>the street which are located on their front boundaries.</p> <p>Refer to photos in clause 3.5 of this report demonstrating such. The location of garages and carports close to front alignments along the street is the result of steeply sloping allotments from Bligh Crescent to the harbour below.</p> <p>Further in relation to the subject site, it's noted that the front boundary is set back from the constructed portion of Bligh Crescent and the carport will appear as being set back further ranging from approx. 3400mm (and behind a rock cliff) to 7000 to the edge of the constructed roadway</p> <p>In our opinion, the proposed front setback is appropriate for the site it being noted that it is impractical to push the carport down the sloping land; and the proposed location is generally conforming with setbacks of existing garages and carports along the low side of Bligh Crescent and adjoining to the south.</p> <p><u>2. Side setback</u> – The proposed southern side setback is 300mm and invokes the provisions of DCP clause 4.1.4.2 and 4.1.4.3</p> <p>The proposed southern side boundary setback is considered appropriate to the site conditions DCP guideline provisions and:</p> <ul style="list-style-type: none">Recognising that the land adjoining along the southern boundary is an Unformed road.Acknowledging a similar side setback on the adjoining property to the south – No 19 Bligh Crescent. <p>In our opinion the side setback is appropriate to the site and locality and will not result in negative environmental impacts.</p>																					
4.1.5. Open Space and Landscaping	<p>1. Open Space Area (OSA) – 60% of site area.</p> <p>2. Landscape area required = 40% of OSA</p>	YES	Refer to assessment Table below - architects' calculations – Drawing 1233-DA 05.																					
<p>4.2. Calculations – Open Space/Landscaping area – refer to architect's Drawing 1233-DA5.</p> <p>NOTE: The proposed carport will occupy land already paved.</p> <table><tr><td></td><td>Required</td><td>Provided/Proposed</td></tr><tr><td>Site area existing</td><td>730m2</td><td>No change</td></tr><tr><td>Open Space existing as calculated in accord with the DCP</td><td>495.9m2=67.9m2</td><td></td></tr><tr><td>Open Space Area required = 60% of site area (730m2x60%)</td><td>438m2</td><td>485.3m2=66.5%^{m2}</td></tr><tr><td>Open Space above ground</td><td></td><td>168.3m2</td></tr><tr><td>Landscape area required = 40% of OSA (40% x 438m2)</td><td>175.2m2</td><td>196.1m2=40.5%</td></tr><tr><td>Private Open Space required – 18m2 per dwelling - Proposed</td><td></td><td>>18m2 - unchanged</td></tr></table>					Required	Provided/Proposed	Site area existing	730m2	No change	Open Space existing as calculated in accord with the DCP	495.9m2=67.9m2		Open Space Area required = 60% of site area (730m2x60%)	438m2	485.3m2=66.5% ^{m2}	Open Space above ground		168.3m2	Landscape area required = 40% of OSA (40% x 438m2)	175.2m2	196.1m2=40.5%	Private Open Space required – 18m2 per dwelling - Proposed		>18m2 - unchanged
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4.1.6 Parking, Vehicular Access	<p>Objectives;</p> <p>1. Provide assessable parking on site; and provision for bicycles.</p> <p>2. Reduce demand for on-street parking.</p> <p>Ensure that location and design of driveways, parking spaces are safe and integrated into the design of the development to minimise visual impact in the streetscape.</p>	YES	The proposed development is for an open sided double carport accessed from Bligh Crescent.																					
4.1.6.1 Parking Design and Location of garages	Must minimise visual impact on streetscape and neighbouring properties and maintain desired character of the locality.	YES	The proposed carport is located in the only practical area of the site. It is set back from the street as far as is possible and in line with other carparking structures in the area. It's noted that there are examples of garage structures being located hard on the front alignments.																					

PART 5-SPECIAL CHARACTER AREAS AND SITES ENVIRONMENTALLY SENSITIVE LANDS			
5.4.1. Foreshore Scenic Protection Area	Refer to LEP Table clause 6.9. Protect visual aesthetic amenity and views both to and from Middle Harbour.		<p>1. The site is located in the Foreshore Scenic Protection Area.</p> <p>2. The site is a steeply sloping falling away from Bligh Crescent south to mean high water mark.</p> <p>3. The proposed carport is located at the top of the site on an existing hard paved area accessed from Bligh Crescent. The proposed roof height is at RL 21.55 as compared with the height of the existing dwelling of RL 20.66.</p>
			<p>4. The proposal will not have any impact on visual aesthetic amenity or views to and from the foreshore.</p>
Building Finishes, materials and Colours	Selected materials and Colours relevant to the locality.	YES	Refer to architect's detail.
<p><u>Assessment Conclusion - Manly Development Control Plan 2013</u></p> <p>1. The proposal complies with relevant MDCP numerical planning controls and objectives applicable to the site subject to practical consideration of front and side setbacks due to the steep terrain and prevailing setbacks along Bligh Crescent.</p> <p>2. The setbacks provided are considered appropriate and acceptable for this site and relationship to neighbouring properties, existing setbacks along the southern side of Bligh Crescent and the existence of an Unformed road along the southern side of the subject property invoke the provisions of MDCP clause 4.1.4.2 and 4.1.4.3. The setbacks should be accepted by the consent authority.</p> <p>3. The proposal is considered to display no negative environmental impacts and will provide appropriate covered parking for the owner occupants.</p>			

7.0. Conclusion

7.1 The application has been assessed having regard to the provisions of Section 4.15 Evaluation of the Environmental Planning and Assessment Act 1979, the Manly LEP 2013 and Manly DCP 2013 controls, applicable legislation and advice of expert consultants.

7.2. The proposal is a simple architecturally designed carport which presents as modern and appropriate to the site and locality with setback generally in accord with prevailing setbacks along Bligh Crescent it being noted that there are various garages and carports constructed on their front alignments.

7.3. The proposed development:

1. Is permissible in the zone; displays good architectural design and scale consistent with the locality and the streetscape, enhances the character and amenity of the local neighbourhood and meets the planning outcome objectives applicable to the land.
2. Has no unreasonable or unacceptable environmental impacts on the natural and built environment or the amenity of the neighbourhood.
3. Succeeds when assessed against the Heads of Consideration pursuant to Section 4.15 Evaluation of the Environmental Planning and Assessment Act, 1979 and applicable planning controls and objectives.
4. Consent should be granted subject to normal appropriate conditions.

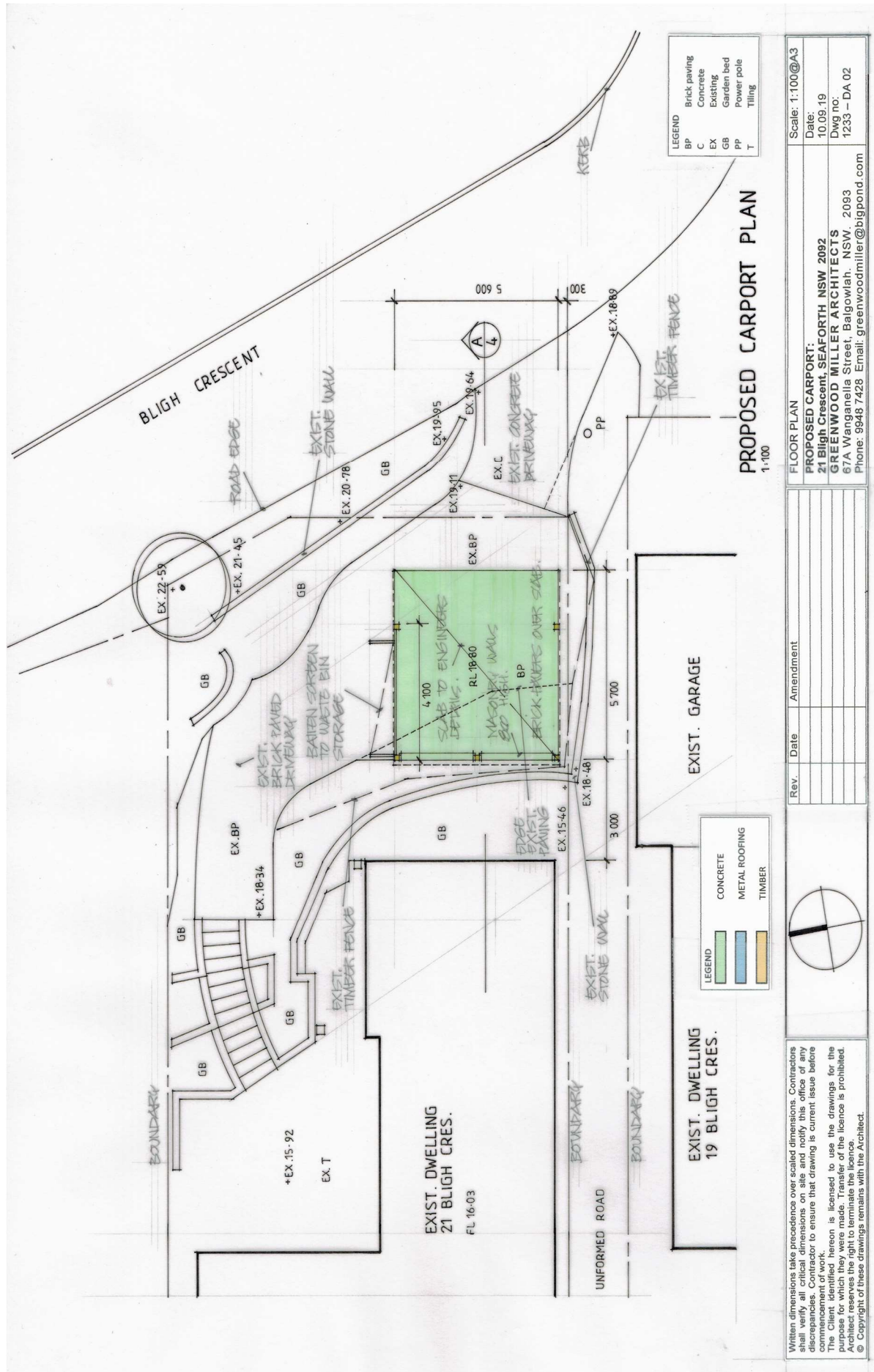
Colco Consulting Pty Ltd

Wayne Collins
Director

18 October 2019

Attachment 1 – Floor Plan
Attachment 2 – Elevations

Attachment 1 – Floor Plan



Attachment 2 – Elevations

