

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/2641
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Responsible Officer:	Thomas Burns
Land to be developed (Address):	Lot 1 SP 1173, 1 / 153 Balgowlah Road BALGOWLAH NSW 2093 Lot 2 SP 1173, 2 / 153 Balgowlah Road BALGOWLAH NSW 2093 Lot 3 SP 1173, 3 / 153 Balgowlah Road BALGOWLAH NSW 2093 Lot 4 SP 1173, 4 / 153 Balgowlah Road BALGOWLAH NSW 2093 Lot CP SP 1173, 153 Balgowlah Road BALGOWLAH NSW 2093
Proposed Development:	Alterations and additions to a residential flat building to create parking spaces
Zoning:	Manly LEP2013 - Land zoned R1 General Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Proprietors of Strata Plan 1173
Applicant:	Charlotte Camille Vergnolle

Application Lodged:	02/02/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	08/02/2022 to 22/02/2022
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 7,880.00
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PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for a new hardstand parking space within the front yard including the widening of the existing vehicle crossover from Balgowlah Road. In addition, the internal driveway will be removed and replaced with a landscaped trafficable hardscape.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 5.10 Heritage conservation

Manly Development Control Plan - 3.1.1 Streetscape (Residential areas)

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

Manly Development Control Plan - 4.1.5 Open Space and Landscaping

Manly Development Control Plan - 4.1.8 Development on Sloping Sites

SITE DESCRIPTION

<p>Property Description:</p>	<p>Lot 1 SP 1173 , 1 / 153 Balgowlah Road BALGOWLAH NSW 2093 Lot 2 SP 1173 , 2 / 153 Balgowlah Road BALGOWLAH NSW 2093 Lot 3 SP 1173 , 3 / 153 Balgowlah Road BALGOWLAH NSW 2093 Lot 4 SP 1173 , 4 / 153 Balgowlah Road BALGOWLAH NSW 2093 Lot CP SP 1173 , 153 Balgowlah Road BALGOWLAH NSW 2093</p>
<p>Detailed Site Description:</p>	<p>The subject site consists of one allotment with frontages to Balgowlah Road (primary frontage) and Major Thomas Place (secondary frontage), Balgowlah. Vehicular and pedestrian access is obtained from both frontages.</p> <p>The site is irregular in shape with a frontage of 14.325m to Balgowlah Road and a splayed frontage of 31.86m to Major Thomas Place. The site has a surveyed area of 571.8sqm.</p>

The site is located within the R1 General Residential zone pursuant to Manly LEP 2013 and accommodates a two storey residential flat building which contains four separate dwellings. The site also contains an attached carport adjacent to the southern boundary that provides parking for three vehicles.

The site accommodates two small trees and contains deep soil landscaping adjacent to the northern and eastern boundaries.

The site is generally flat with no prominent fall.

The site is burdened by a right of carriageway and drainage easement that runs contiguous to the western boundary.

Description of Surrounding Development

Surrounding development on the southern side of Balgowlah Road is characterised by a mix of residential land uses, including residential flat buildings, semi-detached dwelling and dwelling houses, all of which are typically 1-2 storeys in height. Development on the northern side of Balgowlah Road is characterised by a mix of commercial buildings and the Council Balgowlah Depot.

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed no recent or relevant applications.

APPLICATION HISTORY

The Development Assessment Planner examined the site and the surrounds on 24 February 2022.

Following the preliminary assessment of the application, which included the aforementioned site visit, Council wrote to the applicant raising concern with the following aspects of the proposal:

- The proposal included works within 5m of a heritage listed Brushbox street tree and an Arboricultural Impact Assessment (AIA) was not submitted with the application to determine the impacts upon the street tree.
- The applicant had not demonstrated that vehicles could enter and exit the parking space in accordance with AS2890.1.2004.

Subsequently, the applicant submitted amended plans, including an AIA and traffic engineering report to demonstrate that the street tree can be retained and that vehicles can enter and exit the car parking space in accordance with AS2890.1.2004.

The application was not required to be re-notified as the additional information did not create any additional environmental impacts.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Mainly Development Control Plan 2013 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to amended plans, a traffic engineering report and arborist report. The additional information was received and has been assessed accordingly.</p>

Section 4.15 Matters for Consideration	Comments
	<p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan 2013 section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>No submissions were received in relation to this application.</p>
<p>Section 4.15 (1) (e) – the public interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 08/02/2022 to 22/02/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
<p>Landscape Officer</p>	<p>updated comments: A Arboricultural Impact Assessment report is submitted and provides assessment that the proposal is achievable subject to further information being provided, reviewed and endorsed by an appointed</p>

Internal Referral Body	Comments
	<p>project arborist prior to obtaining a Construction Certificate, as should the application be approved, conditions shall be imposed accordingly, as follows:</p> <ul style="list-style-type: none"> • provision of civil design plans detailing preliminary crossover and driveway construction proposal, including excavation levels and pavement materials, • sensitive tree root investigation to assess viability of the proposed civil design plans, as proposed in the report, • provision of arboricultural advice thereafter for final crossover and driveway design and construction, including pavement design, materials and levels, • arboricultural certification for the final crossover and driveway design. <p>The existing Brushbox street tree shall be retained without impact. Should the sensitive tree root investigation determine that the proposal is not possible without impact to the existing Brushbox, the development consent is to be abandoned.</p> <p>previous comments: The development application is the relocation of a car space for unit 3 from the back of the allotment to front of the allotment.</p> <p>The proposal includes widening of the existing driveway within the road reserve verge and provides an increase to the hardstand area under the existing large Brushbox street tree. Council's DA Lodgement Requirements include the necessity to submit a Arboricultural Impact Assessment report when development works are within 5 metres of existing trees.</p> <p>The development within include excavation that may impact the existing Brushbox and the Arboricultural Impact Assessment report shall investigate the viability of the proposal against the requirement to retain the large street tree.</p> <p>Following issue of the Arboricultural Impact Assessment report, Landscape Referral shall continue the assessment.</p>
NECC (Development Engineering)	<p>1st Development Engineering response</p> <p>The applicant proposed a new car parking space on northern side of the property.</p> <p>The existing driveway crossing will be modified to accommodate the proposed parking space.</p> <p>However, the application cannot be supported:</p> <p>1) the manoeuvre of the vehicle: it is unclear how a vehicle enter and exit the proposed car space. A turning path of the B85 vehicle must be provided to demonstrate the exit and enter of the parking space with the property in accordance with AS2890.1.2004. The turning path shall be prepared by an qualified civil/ traffic engineer.</p>

Internal Referral Body	Comments																											
	<p>2) Street tree: The proposed extension of the driveway crossing is located with the structural zone of the street tree. No arborist report has been submitted to investigate and discuss the impact to the tree. Please refer the application to our Landscape Officer for assessment.</p> <p>As the above, Development Engineering cannot support the application due to clause 4.1 of Council Manly DCP 2013</p> <p>2nd Development Engineering response</p> <p>A traffic report has been provided to demonstrate the manoeuvre of the vehicle when entering and exiting the proposed space. Development Engineering has no objection to the application subject to the following conditions of consent.</p>																											
Strategic and Place Planning (Heritage Officer)	<table border="1"> <thead> <tr> <th colspan="3" data-bbox="520 819 1439 853">HERITAGE COMMENTS</th> </tr> <tr> <th colspan="3" data-bbox="520 853 1439 887">Discussion of reason for referral</th> </tr> </thead> <tbody> <tr> <td colspan="3" data-bbox="520 887 1439 1025"> <p>The proposal has been referred to Heritage as the subject site adjoins a heritage item:</p> <p>Item I3 - Street trees - Balgowlah Road (from Condamine Street to Manly Golf Club House)</p> </td> </tr> <tr> <th colspan="3" data-bbox="520 1025 1439 1059">Details of heritage items affected</th> </tr> <tr> <td colspan="3" data-bbox="520 1059 1439 1850"> <p>Details of the heritage item as contained within the Manly Heritage Inventory are:</p> <p>Item I3 - Street trees <u>Statement of Significance:</u> Balgowlah Road East, Historical, early street tree planting indicating importance of road. (from Condamine Street to Manly Golf Club House). Balgowlah Road West (Condamine Street to Hill Street). Aesthetic, part of 1930's street tree planting. Marks entrance to major road thoroughfare from Balgowlah to Queenscliff. <u>Physical Description:</u> Araucaria heterophylla specimens planted in carriageway. Balgowlah Road West (Condamine Street to Hill Street) Avenue of Brush Box (Lophostemon Confertus) tree planting extending from intersection with Condamine Street to Hill Street, Balgowlah. Planting appears c. 1930's.</p> </td> </tr> <tr> <th colspan="3" data-bbox="520 1850 1439 1883">Other relevant heritage listings</th> </tr> <tr> <td data-bbox="520 1883 852 2024">Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</td> <td data-bbox="852 1883 951 2024">No</td> <td data-bbox="951 1883 1439 2024"></td> </tr> <tr> <td data-bbox="520 2024 852 2101">Australian Heritage Register</td> <td data-bbox="852 2024 951 2101">No</td> <td data-bbox="951 2024 1439 2101"></td> </tr> <tr> <td data-bbox="520 2101 852 2136">NSW State Heritage</td> <td data-bbox="852 2101 951 2136">No</td> <td data-bbox="951 2101 1439 2136"></td> </tr> </tbody> </table>	HERITAGE COMMENTS			Discussion of reason for referral			<p>The proposal has been referred to Heritage as the subject site adjoins a heritage item:</p> <p>Item I3 - Street trees - Balgowlah Road (from Condamine Street to Manly Golf Club House)</p>			Details of heritage items affected			<p>Details of the heritage item as contained within the Manly Heritage Inventory are:</p> <p>Item I3 - Street trees <u>Statement of Significance:</u> Balgowlah Road East, Historical, early street tree planting indicating importance of road. (from Condamine Street to Manly Golf Club House). Balgowlah Road West (Condamine Street to Hill Street). Aesthetic, part of 1930's street tree planting. Marks entrance to major road thoroughfare from Balgowlah to Queenscliff. <u>Physical Description:</u> Araucaria heterophylla specimens planted in carriageway. Balgowlah Road West (Condamine Street to Hill Street) Avenue of Brush Box (Lophostemon Confertus) tree planting extending from intersection with Condamine Street to Hill Street, Balgowlah. Planting appears c. 1930's.</p>			Other relevant heritage listings			Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No		Australian Heritage Register	No		NSW State Heritage	No	
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Internal Referral Body	Comments		
	Register		
	National Trust of Aust (NSW) Register	No	
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	N/A	
Consideration of Application			
<p>The proposal seeks consent for relocating an existing car space from the back of the subject property to the front of the property. The proposal also includes to widen the existing driveway crossover from Blagowlah Road. A heritage listed street tree is located in the road reserve outside the subject property, near the proposed extension of the driveway crossover. This extension is not supported by Heritage as it is considered to impact on the heritage listed street tree and the retention of the existing driveway crossover with no extension is recommended.</p>			
<p>Amended Plans - 21 March 2022</p>			
<p>Amended plans have been received and resolved the concerns raised by Heritage. The driveway crossover has been relocated to additional 450mm away from the heritage listed street tree, located outside the property within the road reserve. The Arboricultural Impact Assessment report, submitted by the applicant concludes that there will be no significant environmental impact in terms of streetscape, or the health of the heritage street tree. It is noted that tree protection conditions have already been recommended by Landscape and Heritage supports those conditions.</p>			
<p>Therefore, no objections are raised on heritage grounds, subject to conditions required required by Landscape.</p>			
<p><u>Consider against the provisions of CL5.10 of Manly LEP 2013.</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No</p>			
Further Comments			
<p>COMPLETED BY: Oya Guner, Heritage Advisor</p> <p>DATE: 16 February 2022, Amended - 23 March 2022</p>			

External Referral Body	Comments		

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid, who responded confirming that a formal assessment was not required.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

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

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

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

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

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid, who responded confirming that a formal assessment was not required.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 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 prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Manly Local Environmental Plan 2013

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	0.1m (hardstand)	-	Yes
Floor Space Ratio	0.6:1	no change	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
5.10 Heritage conservation	Yes
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.12 Essential services	Yes

Detailed Assessment

5.10 Heritage conservation

The works are located adjacent to a brushbox tree that forms part of Heritage Item I3 - Street trees, as identified within Schedule 5 of Manly LEP 2013. Council's Heritage Officers have reviewed the proposal and provided the following comments:

"Amended plans have been received and resolved the concerns raised by Heritage. The driveway crossover has been relocated to additional 450mm away from the heritage listed street tree, located outside the property within the road reserve. The Arboricultural Impact Assessment report, submitted by the applicant concludes that there will be no significant environmental impact in terms of streetscape, or the health of the heritage street tree. It is noted that tree protection conditions have already been recommended by Landscape and Heritage supports those conditions".

"Therefore, no objections are raised on heritage grounds, subject to conditions required required by Landscape".

Based on the above commentary, Council is satisfied that the proposal meets the requirements within Clause 5.10 of Manly LEP 2013.

Manly Development Control Plan

Built Form Controls

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Built Form Controls - Site Area: 571.8sqm	Requirement	Proposed	% Variation*	Complies
4.1.4.1 Street Front Setbacks	Primary Frontage: 6m (Balgowlah Road)	nil setback	100%	No
4.1.4.2 Side Setbacks and Secondary Street Frontages	West: 2.11m (1/3 of wall height)	3.1m	-	Yes
	South: 2.11m (1/3 of wall height)	28.6m	-	Yes
	Secondary Frontage: 2.11m (Major Thomas Place) - 1/3 of wall height applied as no prevailing building line	12.4m	-	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% (314.49sqm) of site area	33.11% (189.3sqm)	39.81%	No
	Open space above ground 25% of total open space	nil	-	Yes
4.1.5.2 Landscaped Area	Landscaped area 35% (66.26sqm) of open space	84.63% (160.2sqm)	-	Yes
	3 native trees 5 metres or greater in height	2 native trees	33.33%	No
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	2.46m wide	-	Yes
Schedule 3 Parking and Access	4 spaces	4 spaces	-	Yes

Notes:

1. The site is a corner allotment with dual frontages and the side boundaries are applied to the boundaries that do not adjoin the road reserve (i.e. southern and western boundaries).

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.8 Waste Management	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.8 Development on Sloping Sites	No	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes

Detailed Assessment

3.1.1 Streetscape (Residential areas)

The Manly DCP 2013 sets out the following requirements for parking structures:

3.1.1.4 Garages, Carports and Hardstand Areas

a) Garages, carports and hardstand areas must be designed and sited in a manner that does not to dominate the street frontage by:

- i) its roof form, material choice and detailing by being subservient to the associated dwelling; and*
- ii) being compatible with the streetscape and the location in relation to front setback criteria.*

b) Exceptions to setback criteria referred to in this paragraph may be considered where parking structures are a positive element of the streetscape.

Comment:

The proposed single car hardstand platform is sited in close proximity to the natural ground level and will not dominate the street frontage. Moreover, the southern side of Balgowlah Road contains numerous examples of parking structures adjacent to the front boundary. Hence, the proposed hardstand parking platform will be compatible with the streetscape.

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

Description of non-compliance

The proposed single car hardstand parking platform presents a nil front setback, which does not satisfy the numeric requirement of 6m.

Merit consideration:

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

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

Comment:

As discussed earlier within this report, the southern side of Balgowlah Road contains numerous examples of parking structures (including hardstands) within the front setback area. Thus, it is considered that the proposal is consistent with the surrounding parking arrangement along Balgowlah Road. It should be noted that the hardstand space is well justified as the existing carport on the site only provides off-street parking for three vehicles, whereas the site requires four off-street parking spaces to serve the residential flat building.

Objective 2) To ensure and enhance local amenity by:

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

Comment:

The proposed hardstand parking space does not create any adverse amenity impacts for neighbouring properties, specifically with regards to solar access, views, privacy and visual bulk. In addition, the hardstand space will not detract from the character of the streetscape. Council's Development Engineers have reviewed the application and are satisfied that the proposal will facilitate safe vehicular movement. Overall, the proposal achieves this objective.

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

Comment:

Flexibility is afforded with regards to the front setback numeric non-compliance as the hardstand parking space will not result in adverse streetscape or amenity impacts.

Objective 4) To enhance and maintain natural features by:

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

Comment:

The proposed hardstand parking space does not necessitate the removal of significant vegetation.

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

Comment:

The site is not bushfire prone.

Conclusion

Having regard to the above assessment, it is concluded that the objectives of the control are achieved. Therefore, the application is supported on merit in this particular circumstance.

4.1.5 Open Space and Landscaping

Description of non-compliance

The control requires at least 55% (314.49sqm) of the site to consist of total open space (TOS). To be included as TOS open space areas must be at least 3m x 3m in dimension and must not relate to parking structures or vehicular access (i.e. the driveway and hardstand parking space is excluded).

The application proposes only 33.11% (189.3sqm) as TOS, which does not satisfy the numeric requirement.

In addition, the site only contains two native trees, whereas the control requires at least three native trees on a site of this size.

Merit consideration:

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

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

Comment:

The site does not necessitate the removal of significant vegetation. Furthermore, the two native trees on the site, coupled with the deep soil landscaping around the northern and eastern confines of the site, will ensure that the built form is not a dominant feature on the site.

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.

Comment:

Sufficient vegetation and total open space is retained on the site.

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

Comment:

As discussed earlier within this report, the proposed development will not result in unreasonable

amenity impacts, specifically with regards to solar access, privacy, views sharing and visual bulk. Moreover, the southern side of Balgowlah Road contains numerous examples of parking structures (including hardstands) within the front setback area. Thus, it is considered that the proposal is consistent with the surrounding parking arrangement along Balgowlah Road.

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

Comment:

Sufficient deep soil landscaping is provided on the site to assist in water infiltration.

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

Comment:

The proposal will not lead to a significant spread of weeds.

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

Comment:

The proposal does not result in the removal of native vegetation and will not have an adverse impact upon wildlife habitat.

Conclusion

Having regard to the above assessment, it is concluded that the objectives of the control are achieved. Therefore, the application is supported on merit in this particular circumstance.

4.1.8 Development on Sloping Sites

The application has not been accompanied by a Checklist for Preliminary Assessment of Site Conditions. Nevertheless, the site is not constrained with geotechnical/landslip hazards and the works do not involve any significant earthworks. As such, a Preliminary Assessment of Site Conditions is not necessary in this instance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2021

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

CONCLUSION

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

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

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

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

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

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2021/2641 for Alterations and additions to a residential flat building to create parking spaces on land at Lot 1 SP 1173, 1 / 153 Balgowlah Road, BALGOWLAH, Lot 2 SP 1173, 2 / 153 Balgowlah Road, BALGOWLAH, Lot 3 SP 1173, 3 / 153 Balgowlah Road, BALGOWLAH, Lot 4 SP 1173, 4 / 153 Balgowlah Road, BALGOWLAH, Lot CP SP 1173, 153 Balgowlah Road, BALGOWLAH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Drawing No. 200 (Revision B) - Proposed	22 December	Studio Oulala

Site Plan	2021	Architects
Drawing No. 210 (Revision C) - Plan of Proposed Carspace	3 March 2022	Studio Oulala Architects
Drawing No. 310 (Revision C) - Sections	3 March 2022	Studio Oulala Architects
Drawing No. 400 (Revision B) - Elevations	22 December 2021	Studio Oulala Architects

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Swept path analysis for the proposed car parking space at 153 Balgowlah Road, in Balgowlah, NSW	16 March 2022	Traffic Engineering Centre Pty Ltd
Arboricultural Impact Assessment Report Ref. 2822	16 March 2022	Rain Tree Consulting

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	7 January 2022	Charlotte Camille Vergnolle

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

2. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.
 Any such sign is to be maintained while the building work, subdivision work or

demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

3. **General Requirements**

- (a) Unless authorised by Council:
Building construction and delivery of material hours are restricted to:
- 7.00 am to 5.00 pm inclusive Monday to Friday,
 - 8.00 am to 1.00 pm inclusive on Saturday,
 - No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
 - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

 - (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTIONS

4. Security Bond

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition

work commencing, and details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

5. **Tree Root Investigation and Civil Design Plans**

Prior to the issue of a Construction Certificate, the following plans and investigations shall be undertaken:

- provision of Civil Design Plans detailing preliminary crossover and driveway construction proposal, including excavation levels and pavement materials,
- sensitive tree root investigation undertaken by an Arborist with minimum AQF Level 5 in arboriculture, to assess viability of the proposed civil design plans, in proximity to the existing Brushbox street tree.

The Arborist shall provide arboricultural advice thereafter for the final crossover and driveway design and construction, including pavement design, materials and levels, and shall provide:

- arboricultural certification for the final Civil Design Plans for the crossover and driveway design.

Prior to the issue of a Construction Certificate, the Arborist shall submit certification to the Certifying Authority that the final Civil Design Plans are acceptable in terms of street tree retention.

Reason: To ensure protection of the existing Brushbox street tree.

6. **Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

7. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

8. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works

commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website www.sydneywater.com.au for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

9. Project Arborist

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged to provide tree protection measures in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, and the recommendations of the Arboricultural Impact Assessment, to monitor and supervise excavation within tree protection zone of the existing Brushbox street tree, and advise and provide certification of protection works conducted.

Existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by the Project Arborist.

All tree protection measures specified must:

- a) be in place before work commences on the site, and
- b) be maintained in good condition during the construction period, and
- c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifying Authority that all recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note:

- i) A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.
- ii) Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Street tree protection.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

10. Protection of Existing Street Trees

All existing street trees in the vicinity of the works shall be retained during all construction stages and the Brushbox street tree fronting the development site shall be protected in accordance with Section 4 of Australian Standard 4970-2009 Protection of Trees on Development Sites, and the recommendations of the Arboricultural Impact Assessment, including:

- i) Conclusions and Recommendations, subsection 5, 6, 7, 8, 9, 10 and 11.

Should any problems arise with regard to the existing or proposed trees on public land during construction, Council's Tree Services section is to be contacted immediately to resolve the matter to Council's satisfaction and at the cost of the applicant.

Reason: Street tree protection.

11. **Road Reserve**

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

12. **Removing, Handling and Disposing of Asbestos**

Any asbestos material arising from the demolition process shall be removed and disposed of in accordance with the following requirements:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)];
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- The demolition must be undertaken in accordance with Australian Standard AS2601 – The Demolition of Structures.

Reason: For the protection of the environment and human health.

13. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To demonstrate the proposal complies with the approved plans.

14. **Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

15. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 3 metres wide at layback and 5.5 m wide at boundary in accordance with Northern Beaches Council Drawing No A4-3330/1 N and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All

redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

16. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifying Authority.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

17. **Condition of Retained Vegetation - Project Arborist**

Prior to the issue of an Occupation Certificate, a report prepared by the project arborist shall be submitted to the Certifying Authority, assessing the health and impact on the existing Brushbox street tree required to be retained, including the following information:

- i) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- ii) extent of damage sustained by vegetation as a result of the construction works,
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Street tree protection.

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

Signed



Thomas Burns, Planner

The application is determined on 02/06/2022, under the delegated authority of:



Phil Lane, Acting Development Assessment Manager