

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0138
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Responsible Officer:	Clare Costanzo
Land to be developed (Address):	Lot 3 SP 23066, 3 / 149 Balgowlah Road BALGOWLAH NSW 2093
Proposed Development:	Alterations and additions to a multi-unit dwelling (Unit 3)
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:	Sarah Louise Carrigan Cooper Alexander Bernard Carrigan
Applicant:	Alice Cutcliffe

Application Lodged:	25/02/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	08/03/2021 to 22/03/2021
Advertised:	Not Advertised
Submissions Received:	7
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 30,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The proposal comprises of the following work:

- demolish existing pergola
- roof extension to cover the existing terrace of the upper level apartment
- new skylights to proposed roof
- privacy screens along the east, south and west elevation of the existing terrace
- new plantings to existing planter boxes

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 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

SITE DESCRIPTION

Property Description:	Lot 3 SP 23066 , 3 / 149 Balgowlah Road BALGOWLAH NSW 2093
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the southern side of Balgowlah Road, Balgowlah. The site also has a secondary frontage to Majory Thomas Place, Balgowlah.</p> <p>The site is irregular in shape with a primary frontage of 9.69m and 3.56m along Balgowlah Road and a secondary frontage of 37.735m to Marjory Thomas Place. The eastern and southern side boundaries measure 40.23m and 12.19m respectively. The site has a surveyed area of 487.3m².</p> <p>The site is located within the R1 General Residential zone and accommodates a two storey sandstone residence with a tile roof and a single storey brick residence with a metal roof. The site has been strata subdivided previously.</p> <p>The topography of the site is relatively flat.</p> <p>The site is characterised by small shrubs/hedges and medium size palm trees along the Majory Thomas Place secondary frontage.</p>

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by similar one and two storey residential dwellings. Development on Majory Thomas Place comprises of two storey residential flat buildings.

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes for an extended period of time.

Since lodgement of the Development Application Council requested amendments to the proposed roof form to present an increased setback to the southern side boundary. The Applicant provided an amended set of plans and elevation shadows.

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

Section 4.15 Matters for Consideration'	Comments
	purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions 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>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</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 to reflect changes to the proposed roof.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&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><u>Clause 143A</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on	<p>(i) Environmental Impact</p> <p>The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly</p>

Section 4.15 Matters for Consideration'	Comments
the natural and built environment and social and economic impacts in the locality	Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (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.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 08/03/2021 to 22/03/2021 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 process council is in receipt of 7 submission/s from:

Name:	Address:
Miss Alexandra Star Wheeler	1 / 1 Marjory Thomas Place BALGOWLAH NSW 2093
Mr John Andrew Duggan	C/- Cunningham's Property Suite 1/470 Sydney Road BALGOWLAH NSW 2093
Yong Hoon Lee	1 Homestead Court BELLA VISTA NSW 2153
Tyson Wassermeyer	3 / 1 Marjory Thomas Place BALGOWLAH NSW 2093
Brett Foster	Address Unknown
Mr Paul William Malcolm	2 / 153 Balgowlah Road BALGOWLAH NSW 2093
Ms Brydie Leigh Delaney	3 / 1 Marjory Thomas Place BALGOWLAH NSW 2093

The following issues were raised in the submissions and each have been addressed below:

- Solar access
- Increase in the overall floor space
- Loss of landscaping
- Privacy
- Views
- Privacy screen detail
- Bulk and scale
- Ventilation
- Compatibility with Streetscape
- Roof materials

The matters raised within the submissions are addressed as follows:

- Solar Access (Incl. Shadow diagrams undated and do not include the winter and summer solstices and are not certified)

Comment:

The shadow diagrams have been prepared for June 21st (Winter Solstice) in accordance with the requirements of the Manly Development Control (DCP) Plan. The Applicant has also provided a certification of shadow diagrams as part of the development application.

Council requested the Applicant to provide additional shadow elevations and an increased setback to comply with the relevant MDCP controls.

The proposal is expected to see some additional over shadowing above that currently experienced at 12pm on June 21st. The Applicant has provided shadow elevations. It is evident majority of the overshadowing onto the adjoining dwelling at 1 Majory Thomas Place is a result of the existing dwelling and the proposed roof extension is not expected to result in unreasonable additional overshadowing. Windows along the northern and western elevation of Majory Thomas Place are expected to have solar access a minimum of 4 hours from 9am to 3pm on the Winter Solstice (21 June) in line with Clause 3.4.1.2 of the Manly Development Control Plan.

The proposal will not result in any additional overshadowing to the private open space of adjoining dwellings.

Additionally the timber slatted nature of the proposed privacy screening will ensure sunlight penetration through the structure during the morning and afternoon. The location of the privacy screening with a setback of 0.9m is inconsequential and will not result in any further overshadowing with a compliant setback as a result of its modest height and existing development to the north.

On balance, the proposed compliant roof and the privacy screening over the terrace to replace existing pergola is not expected to have an unreasonable impact on the existing solar access enjoyed by adjoining sites.

- Increase in the overall floor space

Comment:

The proposed alterations and additions are not included as gross floor area as they comprise of a terrace with outer walls less than 1.4 metres high from the existing planter boxes. The

proposed privacy screens will be less than 1.4m and will comprise of timber screening that will allow for sunlight access and air ventilation to pass through the terrace.

- Loss of landscaping

Comment:

The proposal does not seek to remove any trees or vegetation. The proposal seeks to replace existing plants within the planter boxes on the terrace.

Additionally, it is not expected the proposal will have any impacts on existing landscaping.

- Privacy

Comment:

The submission raises concerns of privacy impacts for the window of adjoining property directly to the south. The proposal comprises of a modest privacy screen and new planters to maximise privacy for surrounding properties. It is not expected that the proposal will result in a reasonable level of privacy.

- Views

Comment:

Concern has been raised about view loss and retention of the open nature between dwellings. The Application seeks to replace existing pergola with a compliant roof and provide for timber slatted privacy screening for privacy of occupants and adjoining sites. The subject site and adjoining sites all enjoy local views towards Sydney Road and Majory Thomas Place. There are no significant views enjoyed from the site or adjoining sites. Views from the adjoining dwelling at 1/1 Majory Thomas Place to the streetscape are not expected to be comprised as a result of the proposal.

- Privacy screen detail

Comment:

The Applicant has proposed the privacy screening will be slatted timber. New plantings within the existing planter boxes are proposed to provide for additional privacy.

- Bulk and scale

Comment:

The proposed roof addition is compliant with the setback controls and has been proposed as an extension to the existing roof. It is considered to be consistent with bulk and scale of the existing dwelling and compatible with the objectives of 3.1.1 Streetscape (Residential areas).

- Ventilation

Comment:

Ventilation and air flow will continue to be provided as a result of the slatted timber privacy screens. The new privacy screening to the south will be setback the same as existing pergola privacy screening. Sufficient separation is provided for air flow and ventilation.

- Compatibility with streetscape

Comment:

The proposed alterations and additions comprise of an extension to the existing roof form that is compliant with bulk and scale and the pitched roof form is considered to be consistent with the character of the locality. Existing planter boxes will be retained and new plantings will be provided as part of the application to soften the built form and enhance the streetscape.

The works are setback to Majory Thomas Place in line with the existing dwelling and compatible

with the setback of adjoining dwellings.

- Roof Materials

Comment:

A submission was received with concerns that the roof material would result in unreasonable reflection. A condition has been recommended to ensure the roof material will not be reflective or cause excessive glare.

REFERRALS

Internal Referral Body	Comments					
Landscape Officer	<p>The development application is for alterations & additions to a residential flat building comprising a proposed roof to cover the existing outdoor terrace. The new terrace roof will be an addition to the existing pitched roof.</p> <p>Council's Landscape Referral section have assessed the application against the Manly Local Environment Plan, and against the following landscape controls of Manly DCP 2013 (but not limited to):</p> <ul style="list-style-type: none">• section 3: General Principles of Development, including but not limited to clauses 3.3.1 Landscape Design, and 3.3.2 Preservation of Trees and Bushland Vegetation• section 4: Development Controls and Development Types, including but not limited to clauses 4.1.5 Open Space and Landscaping <p>No existing vegetation within the works area, contained in on-slab planters, is proposed nor impacted by the development works, and the existing landscape provisions are maintained. Conditions of consent shall be imposed for the protection of trees and vegetation within adjoining land including the street trees of Balgowlah Road of heritage value that shall be protected from activities including road deliveries of construction materials.</p> <p>Landscape Referral raise no objections to the proposal.</p>					
Strategic and Place Planning (Heritage Officer)	<table><tr><th>HERITAGE COMMENTS</th></tr><tr><th>Discussion of reason for referral</th></tr><tr><td><p>The proposal has been referred to Heritage as the subject property adjoins a heritage item</p><p>I3 - Street Trees -Balgowlah Road (Condamine Street to Manly Golf Club House)</p></td></tr><tr><th>Details of heritage items affected</th></tr><tr><td><p>Detail of the item as contained within the Manly inventory is as follows:</p><p><u>Statement of significance:</u> Balgowlah Road East, Historical, early street tree planting</p></td></tr></table>	HERITAGE COMMENTS	Discussion of reason for referral	<p>The proposal has been referred to Heritage as the subject property adjoins a heritage item</p> <p>I3 - Street Trees -Balgowlah Road (Condamine Street to Manly Golf Club House)</p>	Details of heritage items affected	<p>Detail of the item as contained within the Manly inventory is as follows:</p> <p><u>Statement of significance:</u> Balgowlah Road East, Historical, early street tree planting</p>
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Details of heritage items affected						
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Internal Referral Body	Comments		
	<p>indicating importance of road. (from Condamine Street to Manly Golf Club House).</p> <p>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.</p> <p><u>Physical description:</u></p> <p>Araucaria heterophylla specimens planted in carriageway.</p> <p>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.</p> <p>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 Register	No	
	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 a new roof over an existing terrace at the subject site. The terrace is located at the rear of the two storey building on the property, away from the heritage street trees. The proposed new roof will match the existing gable roof form. Given the addition is at the rear of the property away from the heritage item, the proposal is considered to not impact upon the heritage item or its significance.</p> <p>Therefore Heritage raises no objections and requires no conditions.</p> <p>Consider against the provisions of CL5.10 of MLEP.</p> <p>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: Brendan Gavin, Principal Planner</p> <p>DATE: 25 February 2021</p>		

Internal Referral Body	Comments

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable.

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 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 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 Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid. Ausgrid responded with no objection to the proposal.

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	6.9m	-	Yes
Floor Space Ratio	FSR: 0.6:1	no changes	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
4.6 Exceptions to development standards	Yes
5.8 Conversion of fire alarms	N/A
6.1 Acid sulfate soils	N/A
6.2 Earthworks	N/A
6.4 Stormwater management	Yes
6.8 Landslide risk	N/A
6.12 Essential services	Yes

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 487.3m ²	Requirement	Proposed	% Variation*	Complies
4.1.2.3 Roof Height	Height: 2.5m	2m	-	Yes
	Parapet Height: 0.6m	0.4m	-	Yes
	Pitch: maximum 35 degrees	30 degrees	-	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	1.5m (based on wall height)	East: 1.7m (to privacy screen/roof) South: 1.5m (to roof), 0.01m/0.9m (to existing terrace/proposed privacy screen)	-	No

	Secondary street frontage: Prevailing setback	4.3m, consistent with prevailing setback	-	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area	57%	-	Yes
	Open space above ground 25% of total open space	16%	-	Yes
4.1.5.2 Landscaped Area	Landscaped area 35% of open space	25%	29%	No
4.1.5.3 Private Open Space	18sqm / 12sqm per dwelling	24.8sqm	-	Yes

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.3.1 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
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
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)	N/A	N/A
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	N/A	N/A
Schedule 1 – Maps accompanying the DCP	Yes	Yes

Detailed Assessment

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

Description of non-compliance

The existing terrace presents a significant variation to the side setback control. The proposed privacy screen presents a setback of 0.9m and therefore does not comply with the control.

The privacy screens will replace pergola screening.

Merit consideration:

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

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

Comment:

The existing terrace will be retained and will continue to be softened by new plantings within existing planter boxes. Existing lawn and landscaping fronting to Majory Thomas Place will be retained.

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 existing terrace is of a modest height. The proposed privacy screening which will be setback 0.9m from the boundary will be a modest height. It is not expected that the privacy screening will have an unreasonable impact on local amenity. It is not expected there will be any impacts to solar access above those currently experienced given the siting of the existing structures.

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

Comment:

Flexibility of the siting of the privacy screens is reasonable given they will provide for residential amenity.

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:

There are no changes to the landscaped area as part of the application. The proposal is not expected to have any impacts on the above natural features.

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

Comment:

The proposal is not expected to have unreasonable impacts on bushfire asset protection zones.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

4.1.5 Open Space and Landscaping

Description of non-compliance

The proposal presents a non compliance to the minimum required landscape area by 29%. The site in its currently form does not comply with the landscaped area control.

The site readily complies with the open space control.

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 proposal does not seek to remove any important landscape features and vegetation. The works are not expected to impact on any existing vegetation on 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:

There are no changes to the existing soft landscaped areas and open space at ground level. The proposal seeks to retain existing planter boxes on the terrace area and will provide for new plantings to soften the built form.

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

Comment:

The proposed new plantings to the existing planter boxes will assist in retaining the existing character of the streetscape and maintaining privacy. Existing solar access and views will be generally unchanged.

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

Comment:

Existing landscaped areas will be retained. The new roof portion is to be connected to existing stormwater system. Additionally the planter boxes will maximise water infiltration on site from the new roof.

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

Comment:

The proposal is not expected to generate the spread of weeds or degradation of private and public open spaces.

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

Comment:

Existing wildlife corridors will be retained. The proposal retains existing compliant open space.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MLEP 2013 / MDCP and the objectives specified in section 1.3(a) of the

Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

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

CONCLUSION

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

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

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, 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 DA2021/0138 for Alterations and additions to a multi-unit dwelling (Unit 3) on land at Lot 3 SP 23066, 3 / 149 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
DA01 Contents Page RevB	29/03/2021	Alice Cutcliffe
DA02 Context Plan RevB	08/02/2021	Alice Cutcliffe
DA03 Existing Site, Roof and Analysis Plan RevB	08/02/2021	Alice Cutcliffe
DA04 Proposed Site and Roof Plan RevB	29/03/2021	Alice Cutcliffe
DA05 Floor Plan RevB	29/03/2021	Alice Cutcliffe
DA06 Elevations RevB	29/03/2021	Alice Cutcliffe
DA07 Elevation/Section RevB	29/03/2021	Alice Cutcliffe
DA08 Site Calculations RevB	08/02/2021	Alice Cutcliffe

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	08/02/2021	Alice Cutcliffe

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

- All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- 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);
- 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. Boundary Identification Survey

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any Construction Certificate.

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

6. External Finishes to Roof

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

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

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development. (DACPLC03)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

7. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected including:

- i) all trees and vegetation within the site not approved for removal, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
 - ii) all trees and vegetation located on adjoining properties,
 - iii) all road reserve trees and vegetation.
- b) Tree protection shall be undertaken as follows:
 - i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites including the provision of temporary fencing to protect existing trees within 5 metres of development,
 - ii) any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
 - ii) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
 - iv) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- c) Any existing vegetation within the planters damaged by the works shall be replaced like for like.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking or removal of any tree(s) is prohibited.

Reason: Tree and vegetation protection.

8. **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

9. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Note: The following Standards and Codes applied at the time of determination:

- (a) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003 - Plumbing and drainage - Stormwater drainage
- (b) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003/Amdt 1 - 2006 - Plumbing and drainage - Stormwater drainage
- (c) National Plumbing and Drainage Code.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development. (DACENF05)

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

Signed



Clare Costanzo, Planner

The application is determined on 03/05/2021, under the delegated authority of:



Anna Williams, Manager Development Assessments