

# **STATEMENT OF ENVIRONMENTAL EFFECTS**

**Alterations, additions  
and Strata Subdivision  
of dual occupancy**

**16 Maretimo Street,  
Balgowlah**

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# 1 Introduction

## 1.1 Overview

This report accompanies and supports a Development Application (DA) for alterations and additions and Strata Subdivision of an existing dual occupancy at 16 Maretimo Street, Balgowlah.

Northern Beaches Designs have responded to the client's brief with an appropriate design that is responsive to the prevailing planning objectives for the site and the development character of the location.

On 28 October 1991 DA5030/91 approved a dual occupancy, first floor addition and other alterations to the property. The works constructed under BA 506/91 (approved on 4 February 1992) resulted in the existing development upon the site which is defined as an *attached dual occupancy* under Manly LEP 2013.

Alterations are proposed to improve the function, utility, and appearance of the development. Furthermore, some of the proposed physical works have already been approved by DA5030/91, for example, construction of a separately accessible off-street carparking space within the property frontage near the southern boundary of the site.

The proposal has been designed to have minimum impact on the surrounding amenity and will be complementary and compatible with the local development context.

## 1.2 Statement of Environmental Effects

This report is a Statement of Environmental Effects, pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979 (the Act). The proposal has been considered under the relevant provisions of Section 4.15 as set out within this report. In preparation of this document, consideration has been given to the following:

- Environmental Planning and Assessment Act, 1979
- Local Environmental Plan
- Relevant State Environmental Planning Policies
- Development Control Plan

The proposal is permissible and generally in conformity with the relevant provisions of the above planning considerations.

Overall, it is assessed that the proposed development is satisfactory, and the development application may be approved by Council.

## 2 Site Analysis

### 2.1 Site Description

The site is located at 16 Maretimo Street, Balgowlah. It is legally described as Lot 20, Section E in DP2044 with a land area of 624 m<sup>2</sup>. The land contains an approved, 2 storey attached dual occupancy development.

The allotment is rectangular in shape and has the following dimensions:

- Eastern rear and Maretimo front boundaries of 15.24m
- Northern and southern (side) boundaries 41.0m

### 2.2 Features of the site and its development

The key features of the site and its development include:

- The land is developed with a two storey brick and tile building. A metal carport is located within the northern side setback of the site.
- The building is established within a landscaped setting, on a site that falls modestly to the street and to the south. The site and the adjoining properties have an east/ west orientation to Maretimo Street.
- Waste bin storage is informally arranged / stored within the street frontage.
- The property's topography is sloping from the rear (east) to the front where it meets Maretimo Street.
- The streetscape is characterised by a mix of development types (including detached housing, dual occupancies, residential flat buildings, multi-dwelling housing) fences, entry porticos and carparking structures adjacent to the street.

Figures below depict the character of the location, property, and its existing development.

### 2.3 Previous approval history

Relevant past planning approvals include:

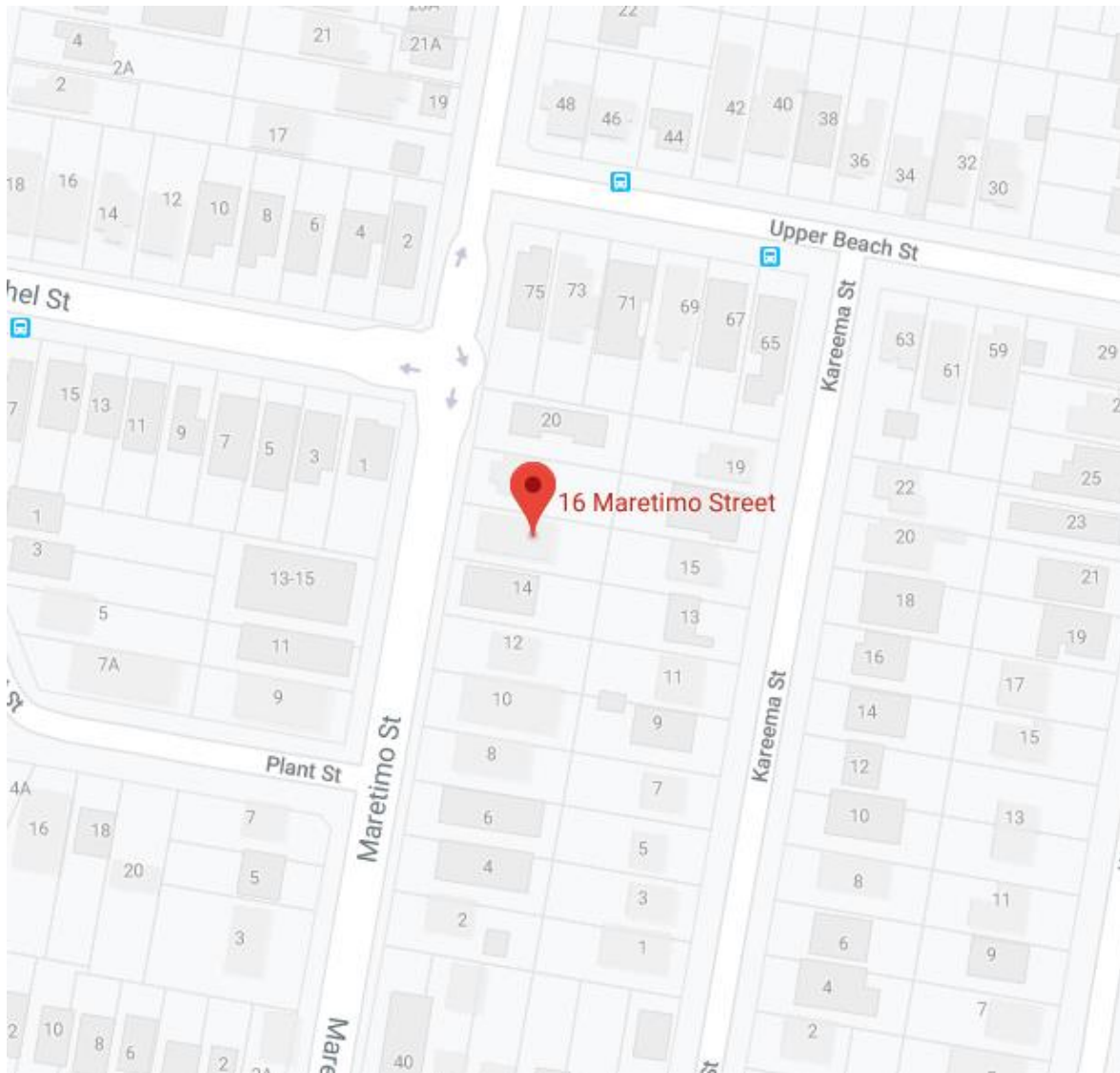
- Development Application DA5030/91 approved a dual occupancy and first floor addition on the site on 28 October 1991.
- Building Approval no. BA 506/91 approved by Manly Council on 4 February 1992 approved dual occupancy and first floor addition.

### 2.4 Zone and key environmental considerations

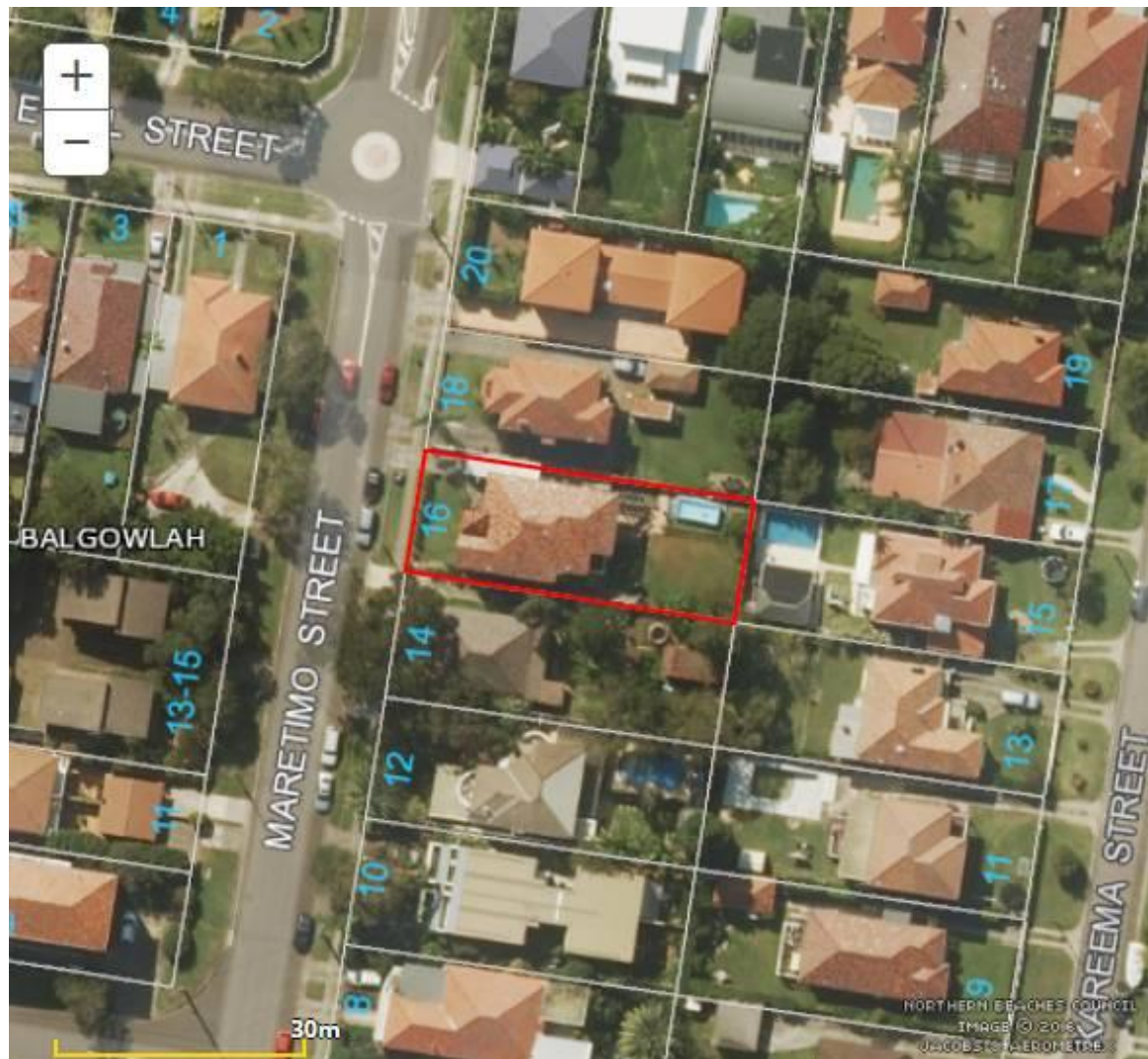
The property is zoned Zone R2 – Low Density Residential under the Manly Local Environmental Plan 2013 (LEP) as is most of the surrounding land.

The site is not affected by key environmental considerations like, for example, acid sulfate soils, biodiversity, flood, waterways, bushfire and geotechnical.

There are no zoning or environmental characteristics that present impediments to the improvements proposed to the land.



**Figure 1 – Location of the site within its wider context (courtesy Google Maps)**



**Figure 2 –The site at 16 Maretimo Street, Balgowlah (courtesy Northern Beaches Council)**





**Figure 3 – existing property as it presents to Maretimo Street**



**Figure 4– existing development and southern boundary interface with Maretimo Street**





**Figure 5 – existing development and northern boundary interface with Maretimo Street**



**Figure 6 – external stairs and a driveway and car parking area adjoins the northern boundary of the subject site**

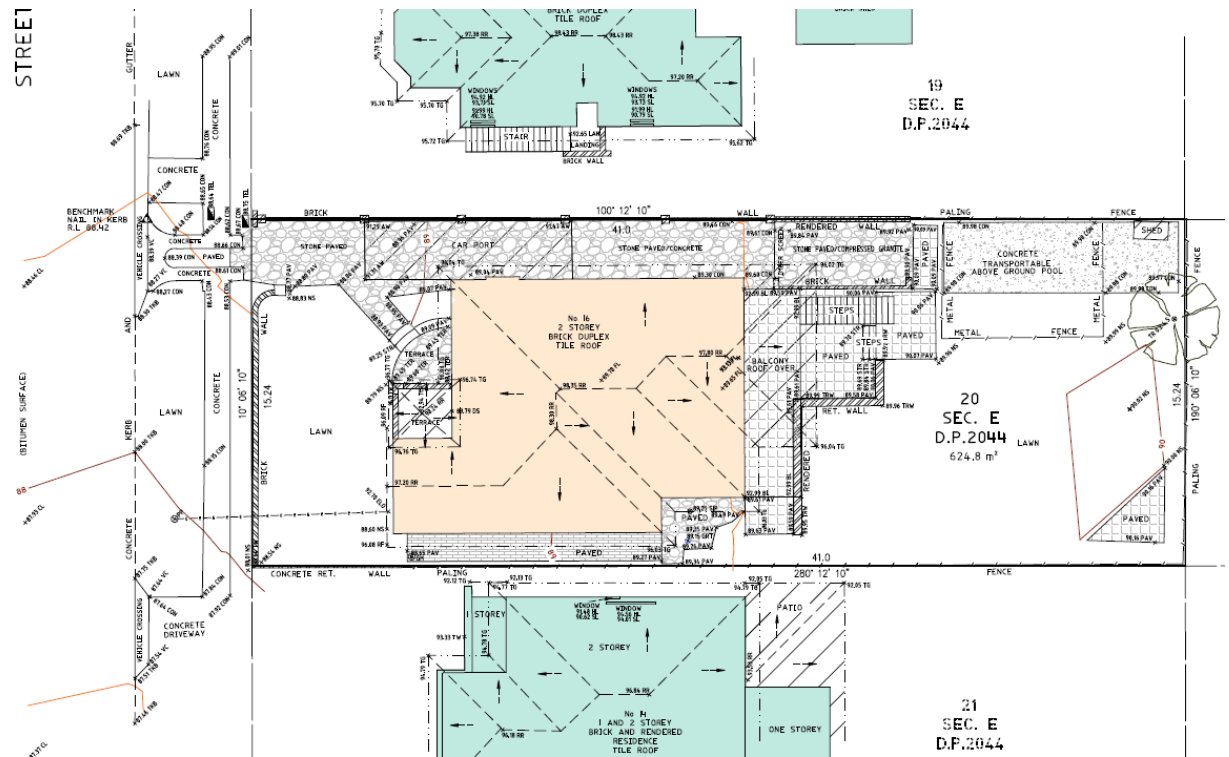


Figure 8 – excerpt from site survey (Waterview surveyors)

### 3 Description of Proposed Development

The application seeks development consent for alterations and additions and Strata Title Subdivision of an existing dual occupancy at 16 Maretimo Street, Balgowlah.

The proposed development is depicted in the accompanying architectural plans by Northern Beaches Designs. Key aspects are noted as follows:

#### **Ground floor dwelling:**

- Demolition of various existing building elements as marked on the architectural plans
- Internal alterations as marked on the architectural plans
- Demolition of existing carport on the northern side and construct a new carport with a similar type of roof structure to what was previously approved in DA5030/91 (figures 12 to 17 below)
- New tiled roof over carport to the north side of the property
- Outdoor terrace with roof over to northern side (behind carport)
- Waste bin storage space behind the carport
- Landscaping works as marked on the architectural plans including (but not necessarily limited to privacy screen / fence within the rear yard to designate private open spaces for each dwelling, retaining wall, entry portico to dwelling two.

#### **First floor dwelling:**

- Demolition of various existing building elements as marked on the architectural plans
- Internal alterations as marked on the architectural plans
- New external entry stair at the rear, south eastern corner of the building with bin store beneath
- Pedestrian entry portico at the street frontage (southern side)

As previously noted, some of the proposed physical works have already been approved by in DA5030/91 and BA 506/91, including:

- New vehicle entry and new driveway
- separately accessible car parking hardstand area

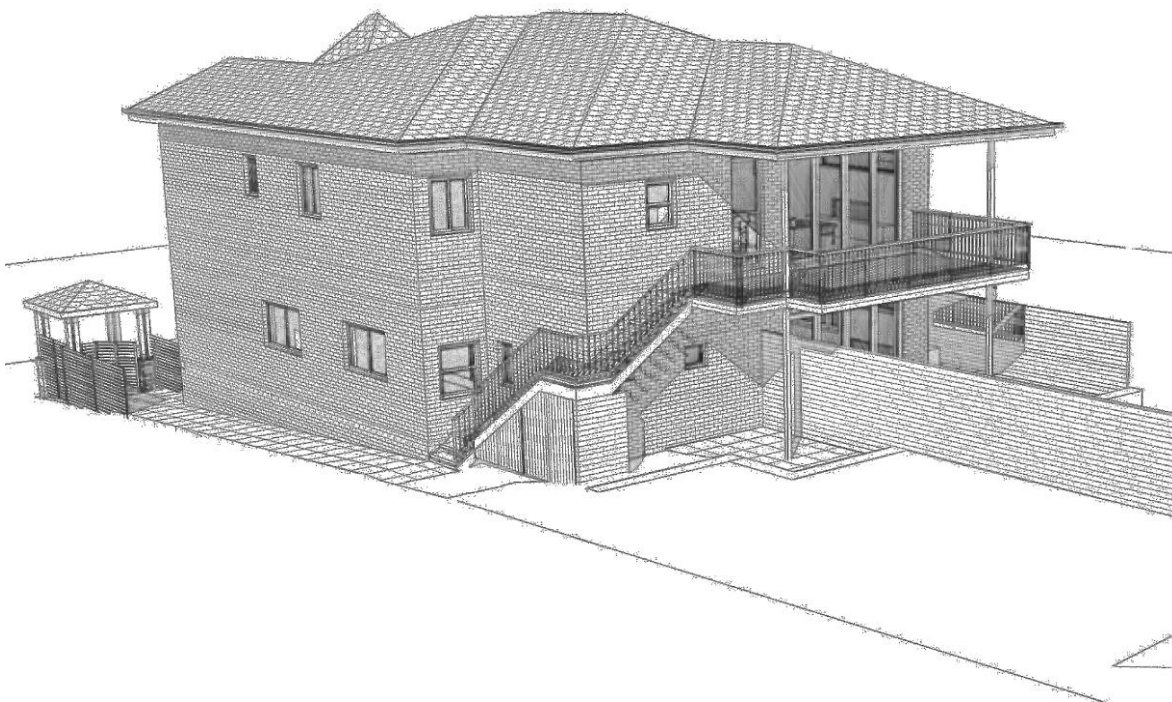
Both being adjacent to the southern side of the site.

An understanding of the proposed development is provided in the following images.





**Figure 9 – Marelimo Street (western) perspective of the proposal**



**Figure 10 - south eastern perspective of the proposal**

## 3.1 Review and relevance of previous approvals

### 3.1.1 Development Application DA5030/91 remains valid to the land

As previously noted, Development Application DA5030/91 approved a dual occupancy and alterations and additions on the land on 28 October 1991. Key aspects of the approval included:

- First floor addition
- Dual occupancy – construction of two dwellings, one above the other
- Fire safety measures as documented upon Council's BA file
- Stormwater drainage
- Approval of a separately accessible car space at the south western corner of the site with direct access from Maretimo Street

Building Approval no. BA 506/91 was approved by Manly Council on 4 February 1992 and relates to the above approved dual occupancy.

The works were physically commenced as evident by the nature and form of building that is upon the property. Furthermore, the use of the land for a dual occupancy commenced following the construction of the approval and the land use remains in existence currently. This means that Development Application DA5030/91 operates in perpetuity pursuant to S4.53 of the Act, titled 'Lapsing of consent' which relevantly states:

(4) Development consent for—

(a) the erection of a building, or

(b) the subdivision of land, or

(c) the carrying out of a work,

does not lapse if building, engineering or construction work relating to the building, subdivision or work is physically commenced on the land to which the consent applies before the date on which the consent would otherwise lapse under this section.

(5) Development consent for development other than that referred to in subsection (4) does not lapse if the use of any land, building or work the subject of that consent is actually commenced before the date on which the consent would otherwise lapse.

### 3.1.2 Key aspects of DA 5030/91 for dual occupancy

Review of the DA and BA approvals relating to the existing development upon the site has been undertaken. The dual occupancy was approved in 1991 under SREP 12, a deemed State Environmental Planning Policy. It required 1 car space per dwelling; reference is made to this in the planner's assessment report on the PDF file copied below (figure 11).

The subject Development Application retains 2 separately accessible car spaces on-site consistent with the planning controls in 1991. Furthermore, this is an improvement to the existing arrangement which involves a non-compliant tandem car parking arrangement.

Some aspects of the previous approvals have not been constructed. It is the owners intent to proceed and develop some of these aspects of the previous approvals. To avoid any uncertainty in relation to future construction certificates that may be needed in relation to

these works, these works are referenced in the accompanying architectural plans and within this development application. The following key aspects are noted as they relate to the subject DA:

- Condition number 2 – relates to deletion of the southern carport and replacement of it with a car hardstand. This condition is upheld by the proposed development.
- Condition number 13 – shifting the location of the southern driveway to avoid the telegraph pole. This condition is upheld by the proposed development.
- Condition number 10 – new footpath crossing for the additional driveway to council's specifications. This condition is upheld by the proposed development.

Planning Controls:

Manly Local Environmental Plan 1988 – Residential – Permissible.

Sydney Regional Environmental Plan No. 12 – Dual Occupancy.

- Site Area- Minimum site area required 400m<sup>2</sup>.  
Actual site area 624m<sup>2</sup>. Complies.
- Floor Space Ratio- Permissible F.S.R. – 0.5:1.  
Proposed F.S.R. 0.46:1. Complies.
- Carparking- Required two spaces.  
Two spaces provided. Complies.

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BUILDING & ENVIRONMENT COMMITTEE – 29 – 22nd October, 1991  
2850b/2851b

Manly Development Control Plan for the Residential Zone (Amendment No. 2).

- Height- Maximum wall height permitted 6.5m.  
Maximum proposed wall height range from 5.6m to 6m.  
Complies.
- Setbacks- The proposal complies with front and rear boundary  
and northern side boundary setbacks.  
A setback of 1.9m is required to the southern  
boundary with 1.4m provided. See Planning Comment.
- Open Space- Required 55% of the site area or 343.2m<sup>2</sup>.  
Provided 54% of site area or 339.1m<sup>2</sup>. See  
Planning Comments.
- Roof Pitch/Height Maximum permissible 35° with a 3m height.  
Proposed 23° with 2.3m height. Complies.
- Sunlight See Planning Comment.

**Figure 11 – excerpts from the assessment report to DA5030/91**

### 3.1.3 Comparison to DA 5030/91 and BA 506/91

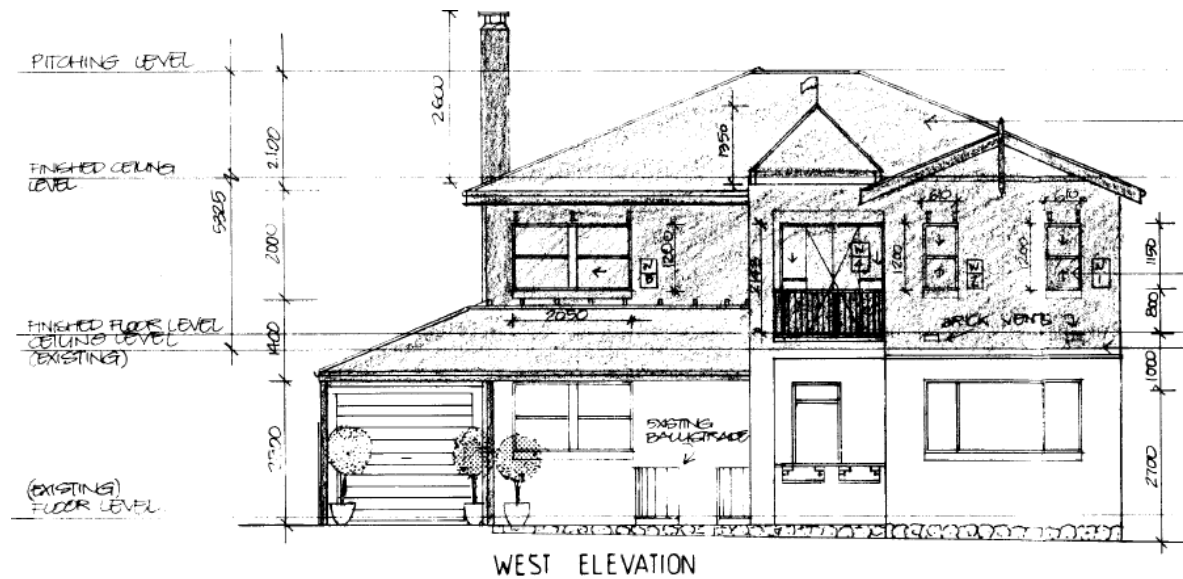


Figure 12 – approved western elevation

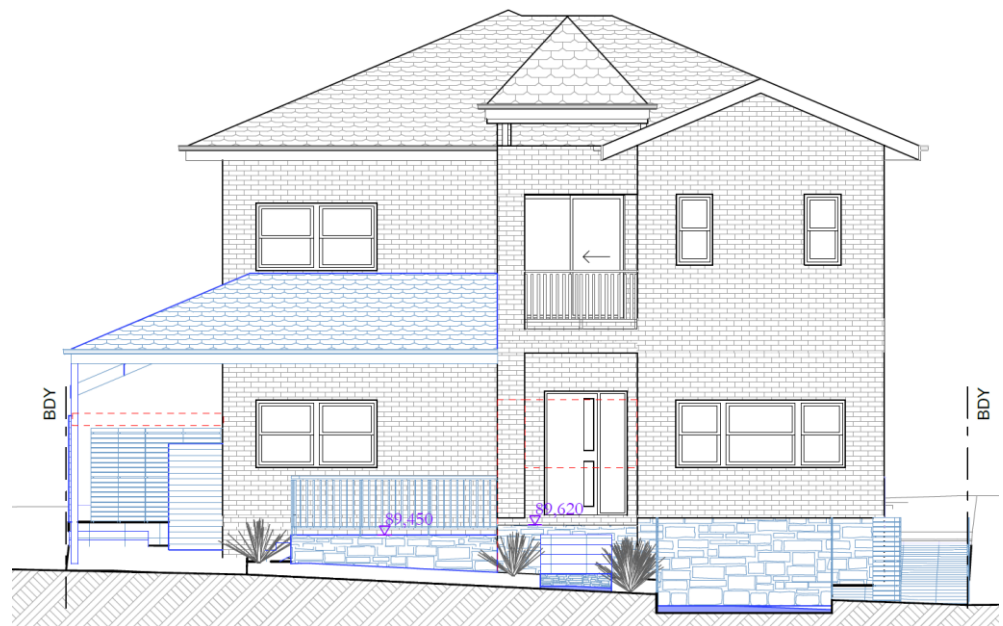


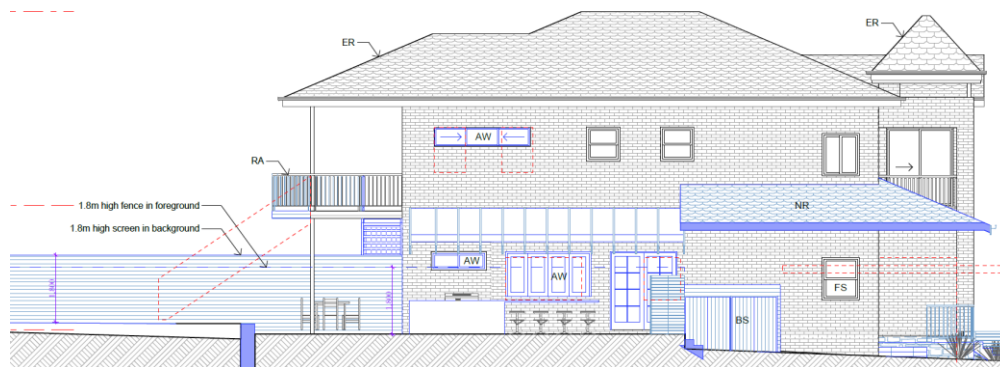
Figure 13 – proposed western elevation



## DESCRIPTION OF PROPOSED DEVELOPMENT



**Figure 14 – approved northern elevation**



**Figure 15 – proposed northern elevation**

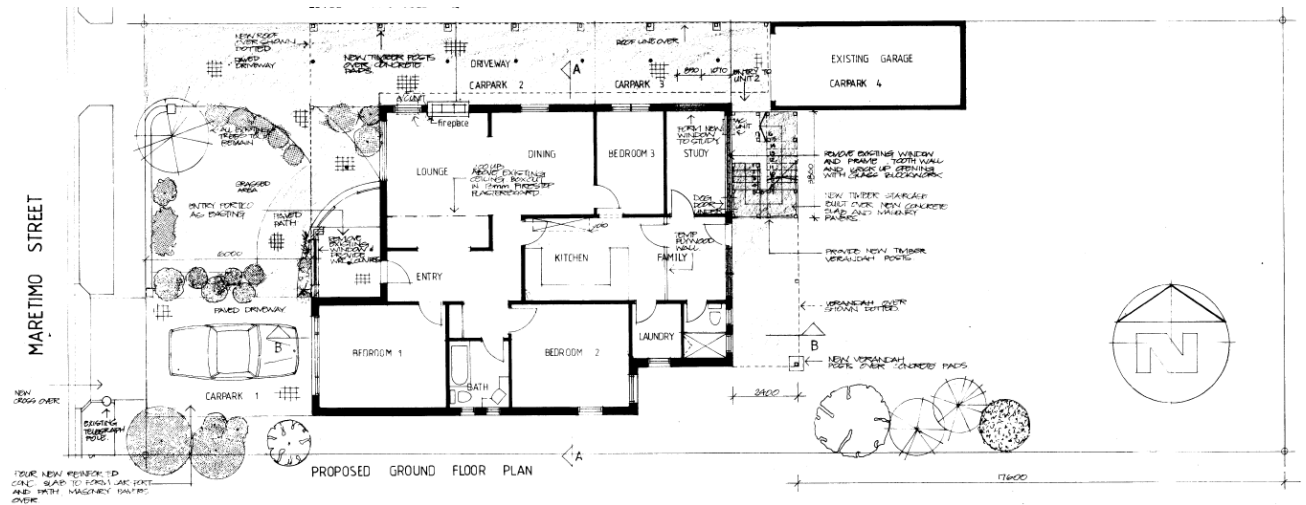


Figure 16 – approved development footprint

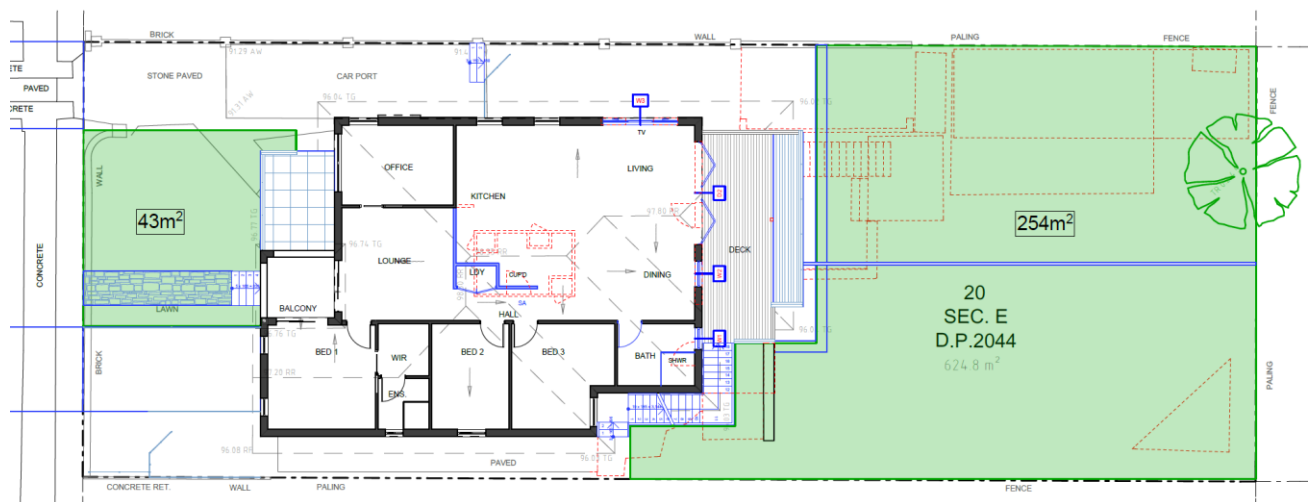


Figure 17 – proposed development footprint

## 4 Environmental Assessment

The following section of the report assesses the proposed development having regard to the statutory planning framework and matters for consideration pursuant to Section 4.15 of the Environmental Planning & Assessment Act, 1979 as amended.

Under the provisions of the Environmental Planning and Assessment Act 1979 (the Act), the key applicable planning considerations, relevant to the assessment of the application are:

- Manly Local Environmental Plan 2013
- State Environmental Planning Policies – as relevant
- Manly Development Control Plan

The application of the above plans and policies is discussed in the following section of this report.

The application has been assessed against the relevant heads of consideration under Section 4.15 of the Act; a summary of these matters are addressed within Section 7 of this report, and the town planning justifications are discussed below.

## 5 Section 4.15 (1)(i) the provisions of any environmental planning instrument

### 5.1 Manly Local Environmental Plan 2013

As previously noted, the site is zoned R2 Low Density Residential pursuant to the provisions of the Manly Local Environmental Plan 2013 (LEP).



Figure 18– zone excerpt (Northern Beaches Council Portal)

The proposal constitutes alterations and additions to the existing attached dual occupancy. The existing attached dual occupancy is a permitted use within the R2 zone. Proposed upon the site are alterations to the property, the majority of which involve renewal and or alterations and additions to existing structures. The objectives of the zone are as follows:

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

We have formed the considered opinion that the proposed development is consistent with the zone objectives as it will provide for the housing needs of the community within a low density residential environment, within a landscaped setting, compatible with the surrounding development. Accordingly, the proposal has had sufficient regard to the zone objectives and there is no statutory impediment to the granting of consent.

## 5.2 Other relevant provisions of the LEP

Other provisions of the LEP that are relevant to the assessment of the proposal are noted and responded to as follows:

LEP Provision	Response	Complies
<b>Part 4 of LEP – Principal Development Standards</b>		
LEP Clause 2.6 Subdivision—consent requirements <i>(1) Land to which this Plan applies may be subdivided, but only with development consent.</i>	<i>Development consent is sought for Strata Title subdivision and is permitted by the LEP.</i>	Yes
LEP Clause 4.1 Minimum subdivision lot size	The proposed development involves Strata Title subdivision. This clause does not apply to Strata Title subdivision	NA
LEP Clause 4.3 – Height of Buildings, 8.5m	The proposed development is under 8.5m in maximum building height as scaled from the architectural plans and complies with this standard.	Yes
LEP Clause 4.4 – Floor space ratio, 0.45 to 1	As per the architectural plans:  Existing FSR: 0.46 to 1  Proposed FSR: 0.43 to 1	Yes
LEP Clause 4.6 – Exceptions to development standards	Not applicable	NA
<b>Part 5 of LEP – Miscellaneous Provisions</b>		
LEP Clause 5.4 Controls relating to miscellaneous permissible uses	Not applicable	NA

LEP Provision	Response	Complies
LEP Clause 5.10 Heritage Conservation	Not applicable	NA
<b>Part 6 of LEP – Additional Local Provisions</b>		
LEP Clause 6.1 Acid sulfate soils	Modest excavation is proposed below the existing site levels and which is above AHD RL 5.00 (being at approx. AHD RL 89)	Yes
LEP Clause 6.2 Earthworks	<p>Modest excavation for footings is proposed below the existing site levels.</p> <p>The siting and design of the proposed development has considered the matters within clause 6.2(3) of the LEP and results in appropriate outcomes against these criteria.</p> <p>Based on the above the proposed development satisfies the considerations within clause 6.2 and the site is suitable for the development proposed.</p>	Yes
LEP Clause 6.3 Flood planning	Not applicable	NA
<p>LEP Clause 6.4 Stormwater management</p> <p><i>‘(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—</i></p> <p><i>(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and</i></p> <p><i>(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and</i></p> <p><i>(c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact’.</i></p>	<p>In relation to stormwater management the proposal will result in an increase in permeable surfaces on the land facilitating</p> <p>The proposal does not result in an increase in impervious areas by 50m<sup>2</sup> or more. Furthermore, onsite stormwater detention is not required for alterations.</p> <p>New downpipes will be connected to the existing stormwater lines &amp; discharged to the street stormwater drainage system.</p> <p>Based on the above, the proposal will avoid any significant adverse impacts of stormwater runoff on adjoining and satisfies clause 6.4 of the LEP.</p>	Yes
LEP Clause 6.8 Development on sloping land	The site is not identified as being affected by potential land instability. The provisions of clause 6.8 are assessed as being satisfied by the proposal.	NA

## **5.3 State Environmental Planning Policies**

### **5.3.1 State Environmental Planning Policy - BASIX**

The proposed alterations and additions is BASIX affected development as prescribed. A BASIX assessment report accompanies the application and satisfies the SEPP in terms of the DA assessment.

### **5.3.2 State Environmental Planning Policy No 55 – Remediation of Land**

State Environmental Planning Policy No. 55 - Remediation of Land applies to all land and aims to provide for a State-wide planning approach to the remediation of contaminated land. The application is accompanied and supported by a Stage 1 Geotechnical investigation.

Clause 7 of SEPP 55 requires Council to consider whether land is contaminated prior to granting consent to carrying out of any development on that land. In this regard, the likelihood of encountering contaminated soils on the subject site is extremely low given the following:

- Council's records indicate that site has only been used for residential uses.
- The subject site and surrounding land are not currently zoned to allow for any uses or activities listed in Table 1 of the contaminated land planning guidelines of SEPP 55.
- The subject site does not constitute land declared to be an investigation area by a declaration of force under Division 2 of Part 3 of the Contaminated Land Management Act 1997.

Given the above factors no further investigation of land contamination is warranted. The site is suitable in its present state for the proposed residential development. Therefore, pursuant to the provisions of SEPP 55, Council can consent to the carrying out of development on the land.

### **5.3.3 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

Sydney Regional Environmental Plan (Sydney Harbour Catchment 2005) is a deemed State Environmental Planning Policy (SEPP) and is applicable to the property. The site is not located within the area designated to be impacted by the Policy.

## **5.4 Building Safety and Accessibility**

In determining an application for a change of use that requires alterations to a building, the consent authority needs to consider the life safety of occupants and protection of the spread of fire from the building in accordance with Cl 94 of the Environmental Planning and Assessment Regulation 2000.

In response, the proposed design has considered compliance with National Construction code requirements. The application is accompanied and supported by a building design compliance assessment report by BCA Logic Consulting. The report finds that the proposal is capable of satisfying building safety and pedestrian access requirements. In conclusion, the relevant safety and accessibility considerations are appropriately addressed and satisfied by the proposal.



## 6 Development Control Plan

### 6.1 Overview

In response to Section 4.15 (1)(iii) of the Act, the Manly Development Control Plan (DCP) is applicable to the property. Relevant provisions to the proposal are addressed below.

Key DCP provisions applicable to the site include:

- The site is within Density Sub-zone D5, having a density of 1 unit per 500m<sup>2</sup>
- The site is within Landscaped Area OS3 – having a Total Open Space Area of 55% of the site area, and a Landscaped Area of 35% of the Open Space Area.

### 6.2 Dwelling Density, Dwelling Size and Subdivision

The following clauses relate to Dwelling Density, Dwelling Size and Subdivision. The proposal involves strata subdivision and therefore these controls are relevant in assessing the DA. Clause 4.1.1 of the DCP is titled 'Dwelling Density, Dwelling Size and Subdivision'. It states:

*Note: In addition to the minimum subdivision lot size standards at LEP clause 4.1, the Density controls in conjunction with other controls in this plan are also important means of prescribing the nature and intended future of the residential areas of the former Manly Council area. Relevant DCP objectives to be satisfied in relation to this part include:*

*Objective 1) To promote a variety of dwelling types, allotment sizes and residential environments in Manly.*

*Objective 2) To limit the impact of residential development on existing vegetation, waterways, riparian land and the topography.*

*Objective 3) To promote housing diversity and a variety of dwelling sizes to provide an acceptable level of internal amenity for new dwellings.*

*Objective 4) To maintain the character of the locality and streetscape.*

*Objective 5) To maximise the use of existing infrastructure.*

In response:

- The proposal involves appropriate alterations and additions that will improve the built form and landscape quality of the property and its capacity to accommodate 2 dwellings, with separately accessible car parking spaces, separate dwelling entries, separate private open space areas and concealed waste bin storage. Furthermore, the proposal will enhance and maintain the character of the locality and streetscape through the street frontage improvements proposed.
- The proposal is not inconsistent with any of these objectives.

Clause 4.1.1.1 of the DCP is titled Residential Density and Dwelling Size. The proposal involves strata subdivision and therefore these controls are relevant in assessing the DA.

*This section contains maximum permissible residential density controls which generally apply to land identified on the LEP Lot Size Map and determine the maximum number of dwellings that may be achieved on any one parcel of land.*



a) The maximum permissible residential density control at Figure 24 - Minimum Residential Density applies to land identified in Residential Density Areas on the Minimum Residential Density Map at Schedule 1 - Map A in this plan.

Figure 24 - Minimum Residential Density determines the maximum number of dwellings that may be achieved on any one development site. This figure indicates the minimum site area required for every dwelling contained on a site. For example, if a density control of 300sqm per dwelling applies to a site with a site area of 600sqm the density control would allow for a maximum of 2 dwellings.

b) For the purposes of calculating the residential density control for battle-axe lots, the area of the access handle is excluded from the site area, consistent with the provisions for minimum subdivision lot size in LEP clause 4.1(3A).

In response:

- The proposed development involves Strata Title subdivision. LEP Clause 4.1 Minimum subdivision lot size does not apply to Strata Title subdivision and therefore has no role to play in the assessment of the DA.
- The site is within Density Sub-zone D5, having a density of 1 unit per 500m<sup>2</sup>. Being 624m<sup>2</sup> the proposal does not comply with this DCP control.
- Whilst the proposal involves strata subdivision of the land, it does not involve increasing the residential density of the land. The residential density of the land was increased / approved under Development Application DA5030/91 for a dual occupancy on 28 October 1991, which included a first-floor addition and construction of two dwellings, one above the other.
- The intensity of the land use is in no way increased by the proposal.
- The number of dwellings on the property is not increased by the proposed development and therefore the provisions of the control are satisfied by the application.
- Based on the above, the proposal satisfies the objectives of the DCP's Dwelling Density control and there are appropriate circumstances to approve a variation to clause 4.1.1 of the DCP.

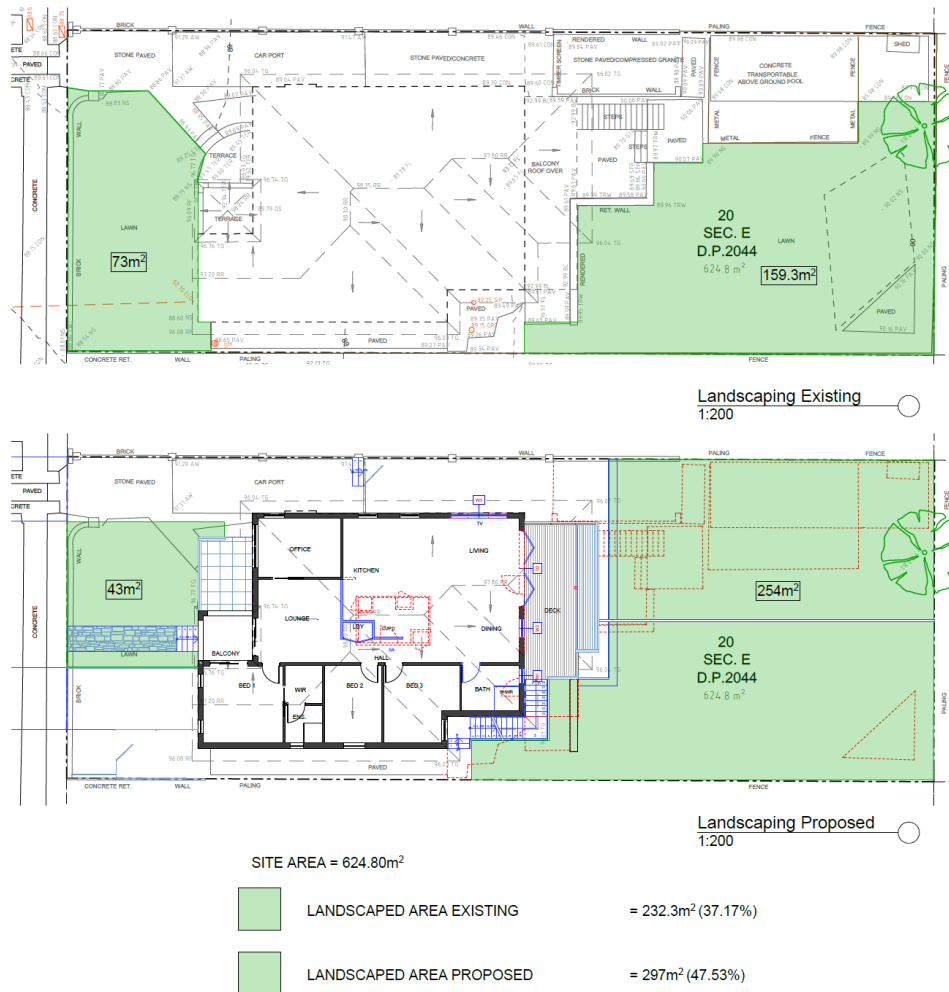
## 6.3 Planning Control Profile

A table demonstrating compliance with the relevant provisions of the DCP is detailed as follows. Where a numerical non-compliance is identified, the objectives of this control and the merits of the proposal are addressed separately below the table.

Control	Requirement	Proposed	Compliance / comment
<b>Max Wall Height (m)</b> <b>Part 4.1.2</b>	Max up to 8 metres	New stair - south side  New roofs to carport and proposed terrace – north side	Yes
<b>Number of Storeys</b> <b>Part 4.1.2.2</b>	2	No change	NA
<b>Front Setback</b> <b>Part 4.1.4.1</b>	6m or average	0m to the proposed entry portico	No*.
<b>Side Setbacks</b> <b>Part 4.1.4.2</b>	1/3 Wall Height	South side: new entry portico to unit 2  North side:  0m to replacement of car port roof  0m to proposed terrace to unit 1	South – no*    North - no*
<b>Rear Setback</b> <b>Part 4.1.4.4</b>	8 metres	No changes proposed	NA
<b>Total Open Space</b> <b>Part 4.1.5.1</b>	The site is within Open Space Area OS3 - 55% (343.2m <sup>2</sup> )	Modest changes are proposed. There is a net increase in landscaped area proposed from 232.3m <sup>2</sup> (37.7%) to 297m <sup>2</sup> (47.5%).  See images (figure 19) below table.	Numerical compliance improved
<b>Soft Open Space</b> <b>Part 4.1.5</b>	35% (of the Total Open Space area) or 120.12 m <sup>2</sup>	Modest changes are proposed. There is a net increase in soft landscaped area proposed from 232.3m <sup>2</sup> (37.7%) to 297m <sup>2</sup> (47.5%).  See images (figure 19) below table.	Numerical compliance improved
<b>Private Open Space (PoS) Part 4.1.5.3</b>	18 m <sup>2</sup> (minimum per dwelling)	Increased private open space is proposed through the:  # Creation of a terrace at ground floor	NA

Control	Requirement	Proposed	Compliance / comment
		<p>level along the northern side to proposed strata unit 1</p> <p># Separation via a fence to the rear yard and allocation to each of these spaces to each dwelling</p> <p>The existing and proposed developments significantly exceed the minimum requirements.</p>	
<b>Above Ground Open Space</b> <b>Part 4.1.5.3</b>	Max 25% of the Total Open Space or 85.8m <sup>2</sup>	A modest extension to the existing, rear, upper floor deck is proposed with the addition of 1m of decking to the east and 5.5m <sup>2</sup> of additional decking in total. The total area of the deck is under 20 m <sup>2</sup> . The total above Ground Open Space is significantly under 85.8m <sup>2</sup>	Yes
<b>Car Parking Spaces</b> <b>Part 4.1.6</b>	Existing dual occupancy approved under SREP 12; 1 space per dwelling required.	<p>2 tandem spaces existing.</p> <p>2 separately accessible spaces in accordance with DA5030/91 will be constructed.</p>	<p>Yes</p> <p>Compliance improved</p>
<b>Solar Access 3.4.1</b>	Min 3 hours to neighbouring dwellings PoS areas and windows to the principal living areas of the adjoining dwellings.	It is concluded that the proposal will not significantly or unreasonably reduce the available sunlight to the adjoining properties and the provisions of the control are satisfied.	Yes

Control	Requirement	Proposed	Compliance / comment
<b>Views CI 3.4</b>	New development is to be designed to achieve a reasonable sharing of views available from surrounding and nearby properties.	<p>Given the topography, the siting of the existing buildings, the proposed location of the building alterations and additions, and the neighbourhood context of the property, the proposed works are not anticipated to significantly or unreasonably impede any established views from surrounding residential properties or public vantage points.</p> <p>Noting these characteristics, the proposal will achieve an appropriate view sharing outcome between the properties. The provisions of this control are satisfied by the proposal.</p>	Yes
<b>Privacy CI 3.4.2</b>	Privacy DCP's objectives.	<p>Privacy has been considered in the proposed design and satisfies the DCP provisions, noting:</p> <ul style="list-style-type: none"> <li>▪ The proposed north side ground floor terrace (unit 1) is screened to the northern neighbour by a roof covering and a proposed boundary fence / privacy screen wall of appropriate height and materials to provide an effective visual barrier between the properties. Furthermore, it is appropriately separated from any sensitive living or outdoor spaces within the neighbouring property at 18 Maretimo Street.</li> <li>▪ Minimal changes to window openings are proposed within the upper level to unit 2.</li> <li>▪ The modest extension of the existing upper level deck is appropriately set back from the side and rear boundaries to result in any significant or unreasonable additional privacy impacts.</li> <li>▪ It is concluded that the proposed alterations and additions will not significantly or unreasonably affect the visual privacy of the neighbouring properties.</li> </ul>	Yes



**Figure 19– existing and proposed landscaped area. The proposal results in an increase to the landscaped area on the site**

## 6.4 Proposed numerical variations

### 6.4.1 Overview

As identified within the above table, variations are exhibited by the proposal with the following numerical aspects of the DCP:

- Side setback – south side entry portico, north side proposed ground floor terrace, and the proposed carport roof replacement
- Front setback - entry portico

These are addressed in turn below.

#### **6.4.2 Side Setbacks**

In relation to the side setbacks of the proposed development, 2 elements of exceedance with the numerical controls are identified and addressed below, they are:

- South side of entry portico
- North side of carport and proposed ground floor terrace

These variations are acknowledged and justification is provided within this section in response to the objectives of the planning control.

The objectives of the control are provided below.

*Objective 1) To maintain and enhance the existing streetscape.*

*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.*
- *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

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

*Objective 4) To enhance and maintain natural features by:*

- *accommodating planting, including 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.*

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

Furthermore, in relation to side setbacks, clause 4.1.4.1 of the DCP states:

***'4.1.4.3 Variations to Side Setback in Residential Density Areas D3 to D9 (see paragraph 4.1.1 of this plan)***

***Note: The following paragraphs apply to residential density areas D3 to D9 identified in Schedule 1 - Map A of this plan. In this regard the variations in this paragraph do not apply to density areas D1 and D2.'***

***'b) Walls located within 0.9m of any one of the side boundaries may be considered but must:***

- i) contain no windows; \**
- ii) be constructed to one side boundary only;*
- iii) limit height to 3m; \**
- iv) limit length to 35 percent of the adjoining site boundary; \*\**
- v) submit a standard of finish and materials for external surfaces which complement the external architectural finishes of adjacent properties and/or the townscape character;*
- vi) obtain a right-of-way to provide access for maintenance; and*
- vii) satisfy the objectives for setback in this plan and the applicant can demonstrate no disadvantage to the adjacent allotment through increased overshadowing, or loss of view and no impediment to property maintenance.*

**\*Note:** Any wall over 3m high must comply with the setback requirements irrespective of whether the wall contains windows or not.

**\*\*Note:** In relation to semi-detached dwellings the variation to side boundaries for the purpose of this paragraph is the common wall and further variations to side setback under this paragraph do not apply'.

**\*\*\*Note:** Side Setback – living room windows (2 each side)

## Response

The proposed outdoor terrace adjacent to the north side of the property to unit 1 will be adjacent to the side boundary for a length of approximately 11.4m. It incorporates a privacy screen up to approximately 2m in height.

The proposed outdoor terrace (timber deck, roof over, and privacy screen / fence) will occupy approximately 27.8% of the boundary length, and therefore is less than 35% and within the numerical limits of the variation provisions of the side setback control in Residential Density Areas D3 to D9. The height of the wall is single storey above the existing ground level and therefore less than 3 meters. This variation is acknowledged and justification is provided in response to the circumstances and the objectives of the planning control below.

The proposed variation is assessed as appropriate in the circumstances noting that in this instance the location of the existing structures upon the site limits the flexibility available to alternatively design the structure and achieve compliance. The proposed side setback variation relates to an outdoor terrace and modified carport roof. the proposal is of a lesser built form that the structures previously approved / existing in this location upon the property (a garage and carport – see figures 14 and 15).

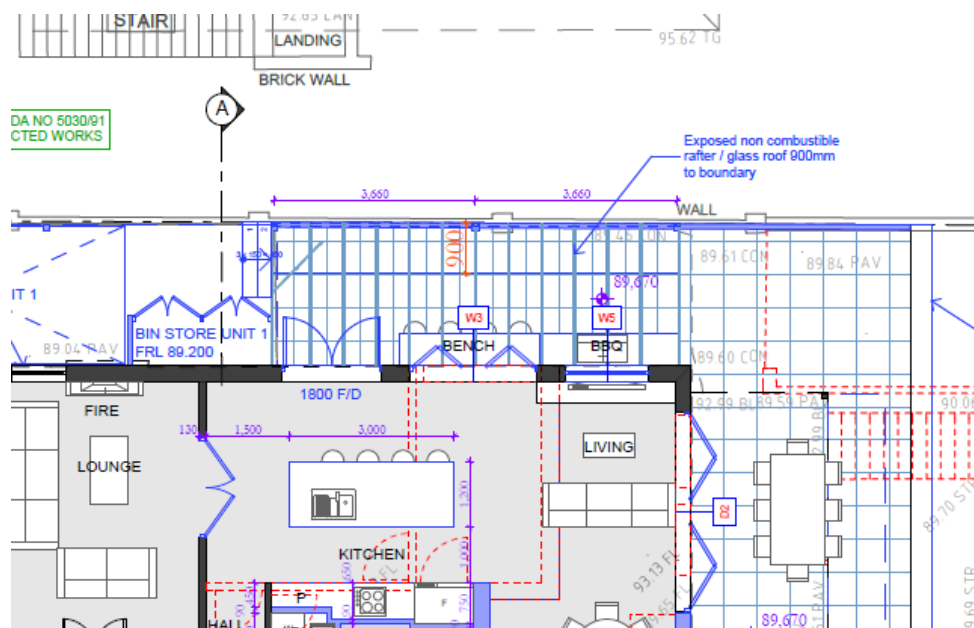
The proposed side setback variation satisfies the DCP objectives noting the following::

- The proposed wall contains no windows;
- The proposed structures will be positioned on only one side boundary;
- The materials for external surfaces are shown within the accompanying architectural plan set demonstrating that the proposal will complement the external finishes of adjacent properties and/or the streetscape character.
- The proposed north side ground floor terrace (unit 1) is screened to the northern neighbour by a proposed boundary fence / privacy screen of appropriate height and materials to provide an effective visual barrier between the properties. Furthermore, it is appropriately separated from any sensitive living or outdoor spaces within the neighbouring property at 18 Maretimo Street.
- The amenity of the adjacent neighbouring properties is not unreasonably or inappropriately adversely impacted. The

northern neighbouring duplex is approximately 4 metres away; there is an entry stair, driveway, and car parking / manoeuvring areas within the property, adjacent to the northern boundary of the subject site. The amenity to the property is gained principally to the north and east, away from the Maretimo Street roadway and towards the northern sunlight, on the opposite side and to the rear of the site. The sensitive living and private open space areas within the adjoining property are appropriately separated from the proposed terrace. It is therefore concluded that the proposed structures will not have significant or unreasonable material, physical, amenity impacts on surrounding land and they will be compatible with other contemporary development outcomes within the local context;

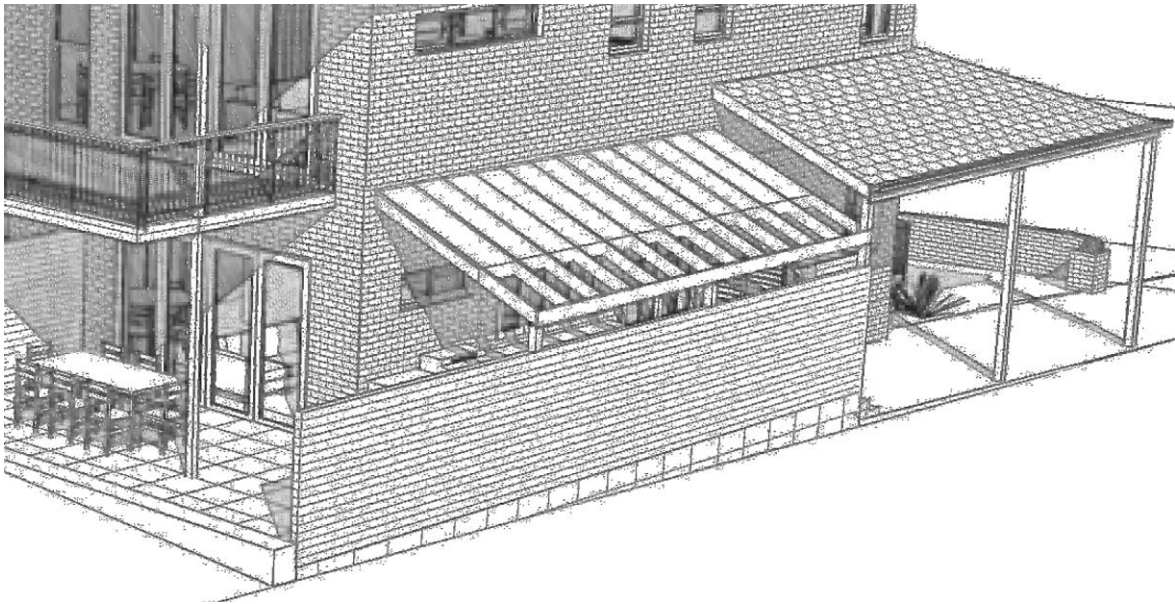
- The streetscape will not be significantly change or adversely impacted by the proposed northern side setbacks aspect of the design;
- No existing significant trees or natural site features are proposed to be removed as a result of this aspect of the design.

For these reasons it is assessed that the proposed north side setback appropriately addresses the objectives of the control. Pursuant to clause (3A)(b) of Section 4.15 of the Act, it is therefore appropriate for the consent authority to be flexible in applying the numerical aspect of the control because the objectives of control have been satisfied.



**Figure 20– existing and proposed landscaped area. The proposal results in an increase to the landscaped area on the site**





**Figure 21– Outdoor terrace with roof over to northern side (behind carport)**



**Figure 22– a significant (and adequate) separation exists between the subject development and the neighbouring property. Furthermore, external egress stairs, a driveway, and car parking area adjoins the northern boundary of the subject site**

### **6.4.3 Front setback**

The proposal maintains the established street setbacks of the principal components of the development, but proposes some modest alterations and additions within the front building setback; in summary these include: the removal of the encroaching section of the carport on the northern side of the property's street frontage, replacement and relocation of the pedestrian entry path to unit 1, modification and extension of the existing front balcony to unit 1 with extension of the roof over (these elements are behind the front building alignment), screening to the approved car parking hardstand space, and addition of an entry portico to unit 2, at the south west corner of the property.

The proposed additions of the screening to the approved car parking hardstand space and entry portico to unit 2 results in an exception to the 6m front setback planning control. These front setback variations are acknowledged, and justification is provided below in response to the circumstances of the proposal and the requirements of the planning control.

The requirements of planning control, '4.1.4.1 Street Front setbacks' are:

*Street Front setbacks must relate to the front building line of neighbouring properties and the prevailing building lines in the immediate vicinity.*

*Where the street front building lines of neighbouring properties are variable and there is no prevailing building line in the immediate vicinity i.e. where building lines are neither consistent nor established, a minimum 6m front setback generally applies. This street setback may also need to be set further back for all or part of the front building façade to retain significant trees and to maintain and enhance the streetscape.*

*Where the streetscape character is predominantly single storey building at the street frontage, the street setback is to be increased for any proposed upper floor level. See also paragraph 4.1.7.1.*

*Projections into the front setback may be accepted for unenclosed balconies, roof eaves, sun-hoods, chimneys, meter boxes and the like, where no adverse impact on the streetscape or adjoining properties is demonstrated to Council's satisfaction.*

In response:

- The streetscape character of the subject site is established by the existing 2 storey dual occupancy development. Furthermore, car parking, functions are approved within the site's Maretimo Street frontage by Development Application 5030/91.
- The streetscape within the visual catchment of the site is characterised by a mix of development types (including detached housing, dual occupancies, residential flat buildings, multi-dwelling housing) fences, entry porticos and carparking structures adjacent to the street.
- With regards to the property's front setback area, it is proposed to renew and enhance the quality and appearance of the property, with formalised car parking, entry treatments and landscape plantings.
- The proposed entry portico is a relatively small, light-weight in appearance, open (pitched roof supported by 4 posts) structure that will be positioned within a landscape setting. The proposed entry portico will not be visually prominent or out of keeping with the streetscape character. The proposed entry portico will facilitate pedestrian legibility and way finding to the upper level dwelling via the southern side pathway and proposed new entry stairs.

- The proposed addition of the screening to the approved car parking hardstand space is of a lightweight appearance and appropriate height. It will provide separation from the adjacent pedestrian entry pathway proposed along its southern side. Its appearance will be enhanced by a proposed garden bed along its northern side. The proposed screening will be viewed within a landscaped setting and is assessed to be compatible with the nature of development constructed and approved on the subject site and within the local streetscape context.

Overall, it is assessed that the prevailing streetscape character provides a compatible built form context for the proposed entry portico and screening to the approved car parking hardstand. It is our assessment that there will be no appropriate adverse impact on the streetscape or adjoining properties resulting from the proposed front setback variations.

For these reasons it is assessed that the proposed front setback appropriately addresses the objectives of the control. Pursuant to clause (3A)(b) of Section 4.15 of the Act, it is therefore appropriate for the consent authority to be flexible in applying the numerical aspect of the control because the objectives of control have been satisfied.

## 7 Section 4.15 Evaluation, Environmental Planning and Assessment Act - Summary

The proposal has been assessed having regard to the matters for consideration pursuant to Section 4.15 of the Act and to that extent Council can be satisfied of the following:

- There will be no significant or unreasonable adverse built environment impacts arising from the proposed physical works on the site.
- The site is appropriate for accommodating the proposed development. The proposal has sufficiently addressed relevant environmental considerations. There will be no significant or unreasonable adverse environmental Impacts arising from the proposal.
- The proposal will result in positive social and economic impacts, noting:
  - Employment during the construction phase of the works;
  - Economic benefits, arising from the investment in improvements to the land;
  - Social (and environmental) benefits arising from the increased utility and renewal of existing housing stock.
- The proposal is permissible and consistent with the objectives of the zone, pursuant to the LEP. The proposal satisfies the relevant provisions of the council's DCP.
- It is compatible with the current and likely future character of development within the local context.
- It will not result in any significant unacceptable offsite impacts that limit the use or enjoyment of nearby or adjoining land.
- The proposal will have an acceptable impact when considering key amenity issues such as visual impact, views, overshadowing, noise and privacy.
- Given the site's location and established function, the site is assessed as being entirely suitable for the proposed development.
- The public interest is best served through the approval of the application.

## 8 Conclusion

The application seeks development consent for alterations and additions and Strata Subdivision of an existing dual occupancy at 16 Maretimo Street, Balgowlah.

Northern Beaches Designs have responded to the client's brief with a design of exceptional quality that is responsive to the prevailing planning objectives for the site and the development character of the location.

The proposed alterations and additions will improve the function, utility, and appearance of the existing development. The proposal has been designed to blend appropriately with the features of the existing streetscape and will be compatible with the established built form context. The proposal represents an appropriate design that is responsive to the prevailing planning objectives for the site and the development character of the location.

This report demonstrates that the proposal is appropriately located and configured property to complement the property's established neighbourhood character. The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15 of the Environmental Planning and Assessment Act, 1979 and should be granted development consent.

### **BBF Town Planners**



**Michael Haynes - Director**



Appendix 1      DA      Appendices      –      under  
separate cover