

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2022/0828
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Responsible Officer:	Thomas Burns
Land to be developed (Address):	Lot 3 SP 1173, 3 / 153 Balgowlah Road BALGOWLAH NSW 2093
Proposed Development:	Alterations and additions to a residential flat building
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:	Austin Frederick Ware Charlotte Camille Vergnolle
Applicant:	Charlotte Camille Vergnolle

Application Lodged:	20/05/2022
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	31/05/2022 to 14/06/2022
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 175,000.00
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PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for alterations and additions to an existing two storey residential flat building. The works consist of:

- Remove existing roof over carport.
- New storage areas within existing carport.
- New extension to the south on the first floor to provide an enclosed terrace, bedroom, study and ensuite to serve Unit 3.
- Alterations to ground floor external decking to Unit 1.
- New timber batten front boundary fencing along the Balgowlah Road and Marjory Thomas Place frontages.

ASSESSMENT INTRODUCTION

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

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

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 - 5.10 Heritage conservation

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

Manly Development Control Plan - 4.1.5 Open Space and Landscaping

Manly Development Control Plan - 4.1.10 Fencing

SITE DESCRIPTION

Property Description:	Lot 3 SP 1173 , 3 / 153 Balgowlah Road BALGOWLAH NSW 2093
Detailed Site Description:	<p>The subject site consists of one allotment with frontages to Balgowlah Road (primary frontage) and Marjory Thomas Place (secondary frontage), Balgowlah. Vehicular and pedestrian access is obtained from both frontages.</p> <p>The site is irregular in shape with a frontage of 14.325 metres to Balgowlah Road and a splayed frontage of 31.86 metres to Major Thomas Place. The site has a surveyed area of 571.8m².</p> <p>The site is located within the R1 General Residential zone pursuant to Manly LEP 2013 and accommodates a two storey residential flat building which contains four separate dwellings. The site also contains an attached carport adjacent to the southern boundary that provides parking for three vehicles.</p>

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

The site is generally flat with no prominent fall.

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

Description of Surrounding Development

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

Map:



SITE HISTORY

The site has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

- **Development Application DA2021/2641** for alterations and additions to a residential flat building to create parking spaces approved by Council on 2 June 2022.

APPLICATION HISTORY

A site inspection was undertaken on 29 June 2022.

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

Subdivision Plan

The proposed development seeks in part to alter the existing subdivision plan to transfer existing common property adjacent to Balgowlah Road and Marjory Thomas Place into private ownership for Units 1 and 2 on the ground floor of the existing residential flat building. Internal fencing was also proposed within the common property to divide Units 1 and 2.

Council did not support this aspect of the proposed development, noting that the transfer into private ownership will impact upon the on-going viability to maintain the existing landscaped area within the primary and secondary front setback areas as landscaping which contributes to the streetscape.

Right of Carriageway

A Right of Carriageway and drainage easement is located along the western boundary of the site. The proposal includes a new 1.8 metre high timber gate and new bin enclosure area within this restricted part of the subject site. Owners consent from the benefiting properties of this Right of Carriageway and drainage easement was not provided. Absent this owners consent, Council cannot support these encroaching elements of the proposal.

Subsequently, the applicant submitted amended plans to demonstrate the following:

- The subdivision of land for Units 1 and 2 has been removed so the garden remains common property.
- The majority of internal fencing through the existing common property is removed.
- The fence and bin enclosure over the drainage easement and right of carriageway were removed.

The amendments constitute a reduced environmental impact and therefore, the application was not required to be re-notified, in accordance with the Northern Beaches CPP.

It is further noted that the amendments did not alter the BASIX commitments and thus, a revised BASIX Certificate was not required.

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	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan 2013 applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.

Section 4.15 Matters for Consideration	Comments
<p>Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)</p>	<p><u>Part 4, Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to amended architectural and subdivision plans. This information was subsequently received and assessed accordingly.</p> <p><u>Clause 61</u> of the EP&A Regulation 2021 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 62 and/or 64</u> of the EP&A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 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 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan 2013 section in this report.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>No submissions were received.</p>

Section 4.15 Matters for Consideration	Comments
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 31/05/2022 to 14/06/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

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

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	<p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Landscape Officer	<p>The application seeks consent for alterations and additions to a residential flat building.</p> <p>Council's Landscape Referral section have considered the application against the Manly Local Environment Plan, and the following Manly DCP 2013 controls (but not limited to):</p> <ul style="list-style-type: none"> • 3.3.1 Landscaping Design • 3.3.2 Preservation of Trees or Bushland Vegetation <p>The plans indicate that no trees are to be removed to accommodate the proposed works. Additional planting is proposed on the Landscape Plan.</p> <p>It is apparent that some pruning of a tree on the adjacent property (5 Marjory Thomas Place) will be required to enable construction of the proposed works above the existing carport.</p>

Internal Referral Body	Comments																														
	<p>Conditions have been included requiring pruning to be undertaken by a qualified Arborist and to minimise pruning to be undertaken.</p> <p>No objections are raised with regard to landscape issues subject to conditions.</p>																														
NECC (Development Engineering)	<p>Development Engineering has no objection to the application subject to the following conditions of consent.</p> <p>Notes to planner: A 1.8 m high timber gate and some works on the existing Right of Way and Drainage easement. An agreement/ approval of the benefited property owners shall be sought prior to commencement of work on the ROW and easement.</p>																														
Strategic and Place Planning (Heritage Officer)	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="3" style="background-color: #cccccc;">HERITAGE COMMENTS</th> </tr> <tr> <th colspan="3" style="background-color: #cccccc;">Discussion of reason for referral</th> </tr> </thead> <tbody> <tr> <td colspan="3"> <p>The proposal has been referred to Heritage as the subject site adjoins a heritage item:</p> <p>Item I3 - Street trees - Balgowlah Road (from Condamine Street to Manly Golf Club House)</p> </td> </tr> <tr> <th colspan="3" style="background-color: #cccccc;">Details of heritage items affected</th> </tr> <tr> <td colspan="3"> <p>Details of the heritage item as contained within the Manly Heritage Inventory are:</p> <p><u>Statement of Significance:</u> Balgowlah Road East, Historical, early street tree planting indicating importance of road. (from Condamine Street to Manly Golf Club House). Balgowlah Road West (Condamine Street to Hill Street). Aesthetic, part of 1930's street tree planting. Marks entrance to major road thoroughfare from Balgowlah to Queenscliff.</p> <p><u>Physical Description:</u> Araucaria heterophylla specimens planted in carriageway. Balgowlah Road West (Condamine Street to Hill Street) Avenue of Brush Box (Lophostemon Confertus) tree planting extending from intersection with Condamine Street to Hill Street, Balgowlah. Planting appears c. 1930's.</p> </td> </tr> <tr> <th colspan="3" style="background-color: #cccccc;">Other relevant heritage listings</th> </tr> <tr> <td style="width: 50%;">Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</td> <td style="width: 10%;">No</td> <td style="width: 40%;"></td> </tr> <tr> <td>Australian Heritage Register</td> <td>No</td> <td></td> </tr> <tr> <td>NSW State Heritage Register</td> <td>No</td> <td></td> </tr> <tr> <td>National Trust of Aust</td> <td>No</td> <td></td> </tr> </tbody> </table>	HERITAGE COMMENTS			Discussion of reason for referral			<p>The proposal has been referred to Heritage as the subject site adjoins a heritage item:</p> <p>Item I3 - Street trees - Balgowlah Road (from Condamine Street to Manly Golf Club House)</p>			Details of heritage items affected			<p>Details of the heritage item as contained within the Manly Heritage Inventory are:</p> <p><u>Statement of Significance:</u> Balgowlah Road East, Historical, early street tree planting indicating importance of road. (from Condamine Street to Manly Golf Club House). Balgowlah Road West (Condamine Street to Hill Street). Aesthetic, part of 1930's street tree planting. Marks entrance to major road thoroughfare from Balgowlah to Queenscliff.</p> <p><u>Physical Description:</u> Araucaria heterophylla specimens planted in carriageway. Balgowlah Road West (Condamine Street to Hill Street) Avenue of Brush Box (Lophostemon Confertus) tree planting extending from intersection with Condamine Street to Hill Street, Balgowlah. Planting appears c. 1930's.</p>			Other relevant heritage listings			Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005	No		Australian Heritage Register	No		NSW State Heritage Register	No		National Trust of Aust	No	
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Internal Referral Body	Comments		
	(NSW) Register		
	RAIA Register of 20th Century Buildings of Significance	No	
	Other	N/A	
	Consideration of Application		
	<p>The proposal seeks consent for alterations and additions to the south of the existing two storey apartment building. The new addition is located above an existing carport and consists of a new bedroom with an ensuite and a study that are separated from the existing apartment by a new terrace between the existing apartment and the new addition. The existing ground level carport is also altered to include new storage areas.</p> <p>Given the existing carport is accessed via Marjory Thomas Place and proposed works are mainly confined to the rear of the property, away from the heritage listed street trees, the proposal is considered to not impact upon the heritage item or its significance.</p> <p>Therefore, no objections are raised on heritage grounds and no conditions required.</p> <p><u>Consider against the provisions of CL5.10 of Manly LEP 2013.</u> Is a Conservation Management Plan (CMP) Required? No Has a CMP been provided? No Is a Heritage Impact Statement required? No Has a Heritage Impact Statement been provided? No</p>		

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

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 65 - Design Quality of Residential Apartment Development

Clause 4 of State Environmental Planning Policy No. 65 – Design Quality for Residential Apartment Development (SEPP 65) stipulates that:

(1) This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed use development with a residential accommodation component if:

(a) the development consists of any of the following:

- (i) the erection of a new building,
- (ii) the substantial redevelopment or the substantial refurbishment of an existing building,
- (iii) the conversion of an existing building, and

(b) the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and

(c) the building concerned contains at least 4 or more dwellings.

As previously outlined, the proposed development involves alterations and additions to an existing two storey residential flat building. The proposal does not increase the number of storeys to the existing residential flat building.

As per the definition of a residential flat building and the provisions of Clause 4 outlining the application of the policy, the provisions of SEPP 65 are not applicable to the assessment of this application as the subject residential flat building is not three storeys or more in height.

Accordingly, no further assessment is required with regard to the provisions of SEPP 65.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX Certificate was submitted with this application (see BASIX Certificate A457450, dated 5 May 2022). A condition is recommended with this report to ensure compliance with the aforementioned BASIX Certificate.

SEPP (Transport and Infrastructure) 2021

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Manly Local Environmental Plan 2013

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	8.5m	7.12m	-	Yes
Floor Space Ratio	0.6:1 (343.08m ² GFA)	0.572:1 (327.1m ² GFA)	-	Yes

Notes:

1. The maximum height is taken from RL17.49.
2. GFA refers to gross floor area.

Compliance Assessment

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

Detailed Assessment

5.10 Heritage conservation

The site is located adjacent to Heritage Item I3 - Street trees - Balgowlah Road (from Condamine Street to Manly Golf Club House), as identified within Schedule 5 of Manly LEP 2013. Accordingly, Clause 5.10 of Manly LEP 2013 is applicable to this assessment.

Council's Heritage Officer has reviewed the application and raised no objections to the development. Therefore, it is considered that the proposal satisfies the relevant considerations under Clause 5.10 of Manly LEP 2013.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 571.8m ²	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	South: 6.5m (based on flat gradient)	6.8m	-	Yes
	West: 6.5m (based on flat gradient)	6m	-	Yes
4.1.2.2 Number of Storeys	2 storeys	2 storeys	-	Yes
4.1.2.3 Roof Height	Height: 2.5m	1.13m (difference in height between low and high point of proposed skillion roof)	-	Yes
	Pitch: maximum 35 degrees	12 degrees	-	Yes
4.1.4.1 Street Front Setbacks	Primary Frontage: 6m (Balgowlah Road)	17.6m (ground floor decking)	-	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	Secondary street frontage: 1.96m (1/3 of eastern wall height as no prevailing building line)	0.5m - 2.67m (1st floor extension) 1.8m - 2.23m (ground floor deck to Unit 1)	up to 74.49%	No
	Windows: no windows within 3m of side boundaries	no new windows within 3m of side boundaries (i.e. southern and western boundaries)	-	Yes
	South: 2.27m (1/3 of wall height)	0.36m - 1.2m	up to 86.76%	No
	West: 2m (1/3 of wall height)	3.4m	-	Yes
4.1.4.4 Rear Setbacks	N/A - as corner allotment	N/A	N/A	N/A
4.1.5.1 Minimum Residential Total Open Space Requirements	Open space 55% (314.49m ²) of site area	33.11% (189.3m ²) - as per Development Application DA2021/2641	39.81%	No - however no further non-compliance from previous

Residential Open Space Area: OS3	Open space above ground 25% of total open space	nil	-	approval Yes
4.1.5.2 Landscaped Area	Landscaped area 35% (66.26m ²) of proposed open space	83.99% (159m ²) of proposed open space	-	Yes
	3 native trees	2 native trees	33.33%	No - however no further non-compliance from previous approval
4.1.5.3 Private Open Space	12m ² per dwelling	Unit 3 (subject to the extension): 23.5m ² (weatherproof terrace)	-	Yes
Schedule 3 Parking and Access	4 space	4 spaces - as per Development Application DA2021/2641	-	Yes

Note: The site is a corner allotment with dual frontages and the side boundaries are applied to the boundaries that do not adjoin the road reserve (i.e. southern and western boundaries). In addition, the wall height requirements are applied to the southern and western boundaries.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.1 Streetscapes and Townscapes	Yes	Yes
3.1.1 Streetscape (Residential areas)	Yes	Yes
3.2 Heritage Considerations	Yes	Yes
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.1 Sunlight Access and Overshadowing	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.2 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)	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.1.10 Fencing	No	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes

Detailed Assessment

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

Description of non-compliance

Secondary Street Frontage Setback

In the absence of a prevailing front building line the control requires development to be setback at least 1/3 of the adjacent wall height from secondary frontages. In applying this principle, the development should be setback at least 1.96 metres from the Marjory Thomas Place frontage.

The extension to Unit 3 on the first floor is setback between 0.5 metres - 2.67 metres from the Marjory Thomas Place frontage, which is a partial numeric non-compliance. The non-compliance is exacerbated by the splayed boundary. It is noted that the proposal does not exacerbate the existing non-compliant secondary front setback as the first floor extension is situated over the existing carport structure.

The ground floor deck extension to Unit 1 is also setback between 1.8 metres - 2.23 metres from the secondary frontage, which is partially non-compliant with the numeric requirement.

Southern Side Setback

The control requires development to be setback at least 1/3 of the adjacent wall height from side boundaries. In applying this principle, the proposal should be setback at least 2.27 metres from the southern side boundary.

The extension to Unit 3 on the first floor is setback between 0.36 metres - 1.2 metres from the southern side boundary, which does not satisfy the prerequisite. It is noted that the existing carport is located adjacent to the southern side boundary.

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 eastern facade facing Marjory Thomas Place is well-articulated and the extension to Unit 3 on the first floor will not have an unreasonable visual impact upon the streetscape. The provision of planter boxes on the facade will soften the visual impacts of the development and the maintenance of the landscaped common property along the Marjory Thomas Place will ensure that adequate landscaping is maintained to preserve the streetscape.

The ground floor extension to the Unit 1 decking is not considered to detract from the streetscape as the finished floor level of the decking is only approximately 0.4 metres above the existing ground level. This will ensure the decking is not visually prominent within the streetscape, particularly given the proposed front boundary fencing will obscure the decking when observed from the public domain. The increased decking also increases the amenity for the occupants of Unit 1.

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:

Whilst the extension to the first floor is located in close proximity to the southern side boundary, it is noted that the development is located adjacent to the driveway for 5 Marjory Thomas Place (southern adjacent site). The development is located over 10 metres from the existing residential flat building on the southern adjacent site, which is sufficient separation to negate unreasonable amenity impacts, specifically with regards to privacy and visual bulk. The additional shadowing created by the extension is also confined to this driveway and the public domain, with habitable rooms and private open space on adjacent properties maintaining the current levels of solar access. The proposal will also not compromise significant view lines from surrounding private and public land. Furthermore, the proposal will not preclude safe and adequate traffic conditions or detract from the character of the streetscape. Overall, the proposal achieves this objective.

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

Comment:

Flexibility is afforded with regards to the secondary front setback and southern side setback non-compliances as the proposed development does not result in unacceptable streetscape or amenity impacts.

Objective 4) To enhance and maintain natural features by:

- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*

- *ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and*
- *ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.*

Comment:

Adequate open space and landscaping is maintained around the primary and secondary frontages to maintain the visual qualities of the streetscape.

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

Comment:

The site is not bushfire prone.

Conclusion

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

4.1.5 Open Space and Landscaping

The control requires at least 55% (314.49m²) of the site to consist of total open space (TOS). To be included as TOS open space areas must be at least 3 metres x 3 metres in dimension and must not relate to parking structures or vehicular access (i.e. the driveway and hardstand parking space is excluded).

The application proposes only 33.11% (189.3m²) as TOS, which does not satisfy the numeric requirement. In addition, the site only contains two native trees, whereas the control requires at least three native trees on a site of this size.

Despite these technical non-compliances, it is important to note that the proposed TOS and number of native trees is consistent with the recent Development Consent DA2021/2641 on the subject site. Whilst the proposal includes an extension to the first floor of the existing residential flat building, it is considered that the objectives of this control are still achieved for the following reasons:

- The proposed development does not result in the removal of important landscape features;
- There is sufficient deep soil landscaping along the primary and secondary frontages to allow for an appropriate landscape outcome;
- The development does not result in adverse amenity impacts (i.e. overshadowing, view loss or privacy impacts);
- The proposal complies with the 35% of open space landscaped area requirement;
- There is sufficient soft landscaping to assist in water infiltration;
- The works will not lead to the significant spread of weeds; and
- The works will not impact upon wildlife habitat.

4.1.10 Fencing

The control allows partially open/transparent front fences to be 1.5 metres above the existing ground

level. The proposed development includes a timber batten fence along portions of the primary and secondary frontages that ranges between 1.5 metres - 1.65 metres above the existing ground level, which is partially non-compliant with this control.

It is considered that full compliance with the 1.5 metre requirement is essential in this instance to prevent a walled-in streetscape and to allow for casual surveillance of the streetscape. Therefore, a condition is recommended requiring the height of the fence to be no greater than 1.5 metres above the existing ground level on the street side of the fence.

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 2022

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2022.

A monetary contribution of \$ 875 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 0.5% of the total development cost of \$ 175,000.

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 DA2022/0828 for Alterations and additions to a residential flat building on land at Lot 3 SP 1173, 3 / 153 Balgowlah Road, BALGOWLAH, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

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

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA02 (Revision E) - Proposed Site Plan	23 July 2022	Studio Oulala Architects
DA03 (Revision E) - Ground Floor Proposed Plan	23 July 2022	Studio Oulala Architects
DA04 (Revision D) - Level 1 Proposed Plan	11 May 2022	Studio Oulala Architects
DA05 (Revision E) - Sections	23 July 2022	Studio Oulala Architects
DA06 (Revision E) - Street Elevations & Finishes	23 July 2022	Studio Oulala Architects
DA07 (Revision E) - Side Elevations & Finishes	23 July 2022	Studio Oulala Architects
DA10 (Revision D) - Landscape Plan	11 May 2022	Studio Oulala Architects
DA13 (Revision D) - Proposed Subdivision Plan	23 July 2022	Studio Oulala Architects

Reports / Documentation – All recommendations and requirements contained within:

Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. A457450	5 May 2022	Charlotte Vergnolle

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	27 April 2022	Charlotte Vergnolle &

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

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

2. Prescribed Conditions

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

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

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.

- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

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

Reason: Legislative requirement.

3. **General Requirements**

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

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

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that

occurs on Council's property.

- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
 - i) Building/s that are to be erected
 - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
 - iii) Building/s that are to be demolished
 - iv) For any work/s that is to be carried out
 - v) For any work/s that is to be demolished

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

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

- (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

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

- (i) Swimming Pools Act 1992
 - (ii) Swimming Pools Amendment Act 2009
 - (iii) Swimming Pools Regulation 2018
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.

- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewerred areas or managed on-site in unsewerred 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.

4. **Boundary Fencing not to encroach over Property Boundaries**

The boundary fencing nominated on the approved plans must be located wholly within the property boundaries. The boundary fencing must not encroach onto adjoining land.

Reason: To ensure works do not encroach onto adjoining land.

FEES / CHARGES / CONTRIBUTIONS

5. **Policy Controls**

Northern Beaches 7.12 Contributions Plan 2021

A monetary contribution of \$875.00 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2021. The monetary contribution is based on a development cost of \$175,000.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2021 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

6. **Security Bond**

A bond (determined from cost of works) of \$2,000 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

7. **Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent, prepared by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to street kerb on Balgowlah Road or Marjory Thomas Place.

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

Reason: To ensure appropriate provision for disposal and stormwater management arising from the development.

8. **Amendments to the approved plans**

The following amendments are to be made to the approved plans:

- The boundary fence fronting Balgowlah Road and Marjory Thomas Place must be reduced to a maximum height of 1.5 metres above natural ground level on the street side of the fence. Additionally, at least 30% of the fence must be open/transparent for at least that part of the fence that is higher than 1 metre.
- The proposed internal fencing and gate adjacent to Unit 1 is not consented to and must be deleted in its entirety. To avoid any doubt, no internal fencing is permitted within the existing common property adjacent to Balgowlah Road and Marjory Thomas Place.

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

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

9. **Fire Resistance**

The proposed building work is required to comply with Parts C of the Building Code of Australia. In particular:

a) The Southern external walls of the building addition is required to be constructed of materials which comply with Specification C1.1, Table 4 of the Building Code of Australia.

b) Openings in an external wall which is required to have a FRL are to be protected in accordance with C3.4 of the Building Code of Australia.

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

Reason: To ensure adequate provision is made for fire safety and for building occupant safety.

10. **Vehicle Crossings Application**

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

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

Reason: To facilitate suitable vehicular access to private property.

11. **Compliance with Standards**

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

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

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

12. **Sydney Water "Tap In"**

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

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

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

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

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

13. **Tree and Vegetation Protection**

- a) Existing trees and vegetation shall be retained and protected including:
- i) all trees and vegetation within the site, 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) existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
 - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
 - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
 - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
 - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
 - vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
 - viii) 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,
 - ix) 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,
 - x) tree pruning from within the site to enable approved works shall not exceed 15% of any tree canopy, shall be undertaken by an Arborist with minimum qualifications AQF Level 3 and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
 - xi) the tree protection measures specified in this clause must:
 - i) be in place before work commences on the site, and
 - ii) be maintained in good condition during the construction period, and
 - iii) remain in place for the duration of the construction works.

The Certifying Authority must ensure that:

- c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites do not occur within the tree protection zone of any tree and any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained on the site during the construction is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

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.

14. **Road Reserve**

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

Reason: Public safety.

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

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

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

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

16. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

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

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

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

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

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

18. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 8 metres wide Marjory Thomas Place in accordance with Northern Beaches Council Drawing No A4-3330/3 NL and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

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

Reason: To facilitate suitable vehicular access to private property.

19. **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**

20. **Landscape Completion**

a) Landscaping is to be implemented in accordance with the approved Landscape Plan.

b) Prior to the issue of any Occupation Certificate details (from a qualified horticulturalist, landscape architect or landscape designer) shall be submitted to the Principal Certifying Authority certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

21. **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.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the

development.

22. **Amended Strata Plan**

The Strata Plan for the subject site is to be amended prior to the issue of any Occupation Certificate, to reflect the works in accordance with the approved stamped plans.

Reason: To ensure the Strata Plan accurately depicts the built works on site.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

23. **Landscape Maintenance**

a) If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

b) If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

Reason: To maintain local environmental amenity.

24. **Unit 3 Terrace Roof to Contain Operable Louvres**

The roof above the Unit 3 terrace on the first floor must always contain operable louvres on an on-going basis.

Reason: To ensure both adequate solar access and weather protection.

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

Signed



Thomas Burns, Planner

The application is determined on 26/07/2022, under the delegated authority of:



Adam Richardson, Manager Development Assessments