

DEVELOPMENT APPLICATION ASSESSMENT REPORT

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| Application Number: | DA2020/0262 |
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| Responsible officer: | Geoff Goodyer, planning consultant, Symons Goodyer Pty Ltd |
| Land to be developed (address): | Lot 120, DP 526584, 4 Bungaloe Avenue, Balgowlah Heights |
| Proposed development: | Alterations and additions to an existing dwelling house. |
| Zoning: | Manly LEP 2013 – Land zoned R2 Low Density Residential |
| Development permissible: | Yes – dwelling house |
| Existing use rights: | No |
| Consent authority: | Northern Beaches Council |
| Delegation level: | Northern Beaches Local Planning Panel |
| Land and Environment Court action: | No |
| Owner: | Paul Murray Grattan and Sarah Elizabeth King |
| Applicant: | M Groupe |

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| Application lodged: | 16 March 2020 |
| Integrated development: | No |
| Designated development: | No |
| State reporting category: | Residential – Alterations and additions |
| Notified: | 26/3/2020 – 9/4/2020 |
| Advertised: | Not advertised |
| Submissions received: | Nil |
| Recommendation: | Approval |

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| Estimated cost of works: | \$80,000 |
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EXECUTIVE SUMMARY

Northern Beaches Council is in receipt of Development Application DA2020/0262 for alterations and additions to an existing dwelling house at 4 Bungalow Avenue, Balgowlah Heights. The proposal is referred to the Northern Beaches Local Planning Panel (NBLPP) for determination as one of the applicants/owners is a Councillor on Northern Beaches Council.

The proposed development complies with the applicable development standards in Manly Local Environmental Plan 2013 (MLEP 2013), being building height and floor space ratio.

The proposed development required a merit assessment in relation to the side boundary setbacks control of the Manly Development Control Plan 2013 (MDCP 2013), due to the replacement of the existing carport with a garage on a nil side boundary setback, and it is concluded that the non-compliant element satisfies the objectives of the control and is acceptable on merit.

Detailed consideration has also been given to the proposal with regards to the impacts of a proposed bin store on the streetscape and impacts of proposed minor excavation, and it is concluded that the proposal satisfies the objectives and matters for consideration contained within the planning controls with regards to these matters.

No submissions were received in response to the public notification of the proposal.

Based on the detailed assessment contained in this report, it is recommended that the application be approved subject to conditions attached to this report.

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 (ie: 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 in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);

SUMMARY OF ASSESSMENT ISSUES

Manly Local Environmental Plan 2013 – 6.2 Earthworks

Manly Local Environmental Plan 2013 – 6.4 Stormwater management

Manly Development Control Plan – 3.4.1 Sunlight access and overshadowing

Manly Development Control Plan – 3.4.2 Privacy and security

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

Manly Development Control Plan – 4.1.6 Parking, vehicular access and loading (including bicycle facilities)

SITE DESCRIPTION

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|-----------------------------------|--|
| Property description: | Lot 120 DP 526584, 4 Bungaloe Avenue BALGOWLAH HEIGHTS NSW 2093 |
| Detailed site description: | <p>The site is located on the eastern side of Bungaloe Avenue 20 metres to the north of its intersection with Ernest Street. The site is quadrilateral in shape, with a western frontage to Bungaloe Avenue of 15.775 metres, a northern side boundary of 40.905 metres, a southern side boundary of 45.04 metres, and an eastern rear boundary of 15.24 metres. The site area is 651.3m² (by title).</p> <p>The site is burdened by an easement for drainage and covenant affecting a very small area (~0.35m²) of the site's south-eastern corner.</p> <p>The site contains a 2-storey / 3-storey dwelling house with a swimming pool in the rear yard and a metal carport adjacent to the southern boundary.</p> <p>The surrounding area has been developed predominantly for dwelling houses in landscaped settings.</p> |

LOCALITY PLAN (not to scale)



Figure 1 – Location of Site

SITE HISTORY

The site has been used for residential purposes for approximately 85 years prior to which it was probably vacant. A search of Council's records has revealed the following relevant history:

- | | |
|------------|---|
| 15.3.2000 | Consent DA36/00 issued for alterations and additions including a first floor addition to existing residence. |
| 13.9.2002 | Consent DA291/02 issued for construction of inground concrete swimming pool and landscape treatment. |
| 9.9.2003 | Consent DA291/02 modification refused. |
| 11.2.2009 | Consent DA291/02 modification approved. |
| 19.12.2019 | DA2019/1455 for alterations and additions to an existing dwelling house rejected for reasons relating to solar panels exceeding the 8.5m building height control, lack of a Geotechnical Report, and lack of a Flood Assessment Report. |

PROPOSED DEVELOPMENT IN DETAIL

The proposal is to carry out alterations and additions to the existing dwelling house.

The following works are proposed:

- Enclosure of the existing sub floor area to provide a sunroom and construction of a new adjacent sundeck. The existing clothes drying area will be retained outside and adjacent to the sunroom. A paved terrace is proposed between the sundeck and the swimming pool.
- The existing metal carport adjacent to the southern boundary is to be replaced with a single garage in substantially the same location and the external stairs providing access from the rear of the garage to the rear yard are to be reconstructed. The existing external stairs to the ground floor level adjacent to the southern boundary are to be demolished and the ground floor entry door converted to a window with frosted glazing.
- A hard stand area for bin storage is proposed adjacent to the front boundary north of the existing driveway.

It is noted that the current development application has addressed the reasons that DA2019/1455 was rejected in the following ways:

- The solar panels no longer form part of the application. All works comply with the 8.5m building height control applying to the site.
- A Preliminary Geotechnical Assessment checklist has been submitted with the application in accordance with the requirements of the MDCP 2013.
- The applicant has consulted with Council's Natural Environment Officer – Flood and has addressed concerns regarding flooding.

STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979
- b) Environmental Planning and Assessment Regulation 2000
- c) Manly Local Environmental Plan 2013
- d) Manly Development Control Plan 2013
- e) State Environmental Planning Policy No. 55 – Remediation of Land and draft SEPP
- f) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- g) State Environmental Planning Policy (Infrastructure) 2007
- h) State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

REFERRALS

Internal referrals

| Referral officer | Comments | Consent recommended |
|-----------------------------|--|---------------------|
| Development engineer | No objections subject to conditions | Yes |
| Landscape officer | No protected trees are proposed for removal and conditions of consent shall be imposed to ensure protection of existing trees. It is unclear from the development application documents if the bins store platform requires the removal of the existing tree that is located on the edge of the proposed bin area. The documents do not indicate removal. It is noted that this deciduous tree is an exempt species that does not require Council consent for removal. No objections subject to conditions. | Yes |
| Natural Environment – Flood | No objections or conditions | Yes |

External referrals

| Referral Body External | Comments | Consent Recommended |
|------------------------|--|---------------------|
| Ausgrid | The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent. | Yes |

EXISTING USE RIGHTS

Existing use rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS

The subject application was notified to surrounding and nearby properties in accordance with the EPA Regulation 2000 and the Northern Beaches Community Participation Plan.

In response, Council received no submissions.

MEDIATION

No requests for mediation have been made in relation to this application.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 4.15 of the EPAA 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 | None applicable. |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan | See discussion on “Manly Development Control Plan 2013” in this report. |
| Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement | None applicable. |
| Section 4.15 (1) (a)(iv) – Provisions of the regulations | <p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000, relates to whether Council requested additional information and has therefore considered the number of days taken in this assessment in light of this Clause within the Regulations. No additional information was requested.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 – 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of</p> |

| Section 4.15 'Matters for Consideration' | Comments |
|--|---|
| | <p>development). No upgrading of the building is required.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> |
| Section 4.15 (1) (b)(iv) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) 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) The proposed development will not have a detrimental social impact in the locality.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the proposed works.</p> |
| Section 4.15 (1) (c) – the suitability of the site for the development | The site is zoned for the proposed purpose and has been developed for this purpose. |
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | See discussion on “Public Exhibition” in this report. |
| Section 4.15 (1) (e) – the public interest | No matters have arisen in this assessment that would justify the refusal of the application in the public interest. |

ENVIRONMENTAL PLANNING INSTRUMENTS

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

SEPP 55 – Remediation of Land and draft SEPP

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

The draft SEPP was publicly notified from 31/1/2018 to 13/4/2018. It proposes to maintain the key operational framework of SEPP 55 and will categorize remediation work based on the scale, risk and complexity of the work. The draft SEPP raises no issues for the assessment of the proposal due to the history of land use not being indicative of site contamination.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX Certificate number A363879_02 dated 26 February 2020 has been submitted for the alterations and additions to the dwelling. The certificate demonstrates compliance with the state government's requirements for sustainability.

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Infrastructure) 2007

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

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

The proposal was referred to Ausgrid who raised no objections to the proposal subject to compliance with relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice for construction works near existing electrical assets. In this regard, a condition is included in the recommendation of this report.

SEPP (Vegetation in Non-Rural Areas) 2017

The proposal does not involve the removal of any protected trees.

Local Environment Plans (LEP's)

Manly Local Environmental Plan 2013 (MLEP 2013)

Consideration of proposal against Manly Local Environment Plan 2013:

| | |
|---|----------------------------|
| Definition of proposed development: (ref. MLEP 2013 Dictionary) | Dwelling house |
| Zone: | R2 Low Density Residential |
| Permitted with Consent or Prohibited: | Permissible with consent |

| Objectives of the Zone |
|--|
| <ul style="list-style-type: none"> 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. |
| <p>The development is considered to be consistent with the relevant objectives of the zone for the following reasons:</p> <ul style="list-style-type: none"> The proposal continues to provide for the housing needs of the community in a low density residential environment. |

| Principal Development Standards: | | | |
|----------------------------------|------------|------------|----------|
| Standard | Permitted | Proposed | Complies |
| Height of buildings | 8.5 metres | 4.9 metres | Yes |
| Floor space ratio | 0.45:1 | 0.39:1 | Yes |

Compliance Assessment

| Clause | Compliance with Requirements |
|---|------------------------------|
| 4.3 Height of buildings | Yes |
| 4.4 Floor space ratio | Yes |
| 4.6 Exceptions to development standards | N/A |
| 6.2 Earthworks | Yes |
| 6.4 Stormwater management | Yes |

Detailed Assessment

6.2 Earthworks

Clause 6.2 Earthworks requires development:

- (a) *to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land, and*
- (b) *to allow earthworks of a minor nature without requiring separate development consent.*

In this regard, before granting development consent for earthworks, Council must consider the following matters:

- (a) *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development*

Comment: The proposal is unlikely to unreasonably disrupt existing drainage patterns and soil stability in the locality.

(b) the effect of the proposed development on the likely future use or redevelopment of the land

Comment: The proposal will not unreasonably limit the likely future use or redevelopment of the land.

(c) the quality of the fill or the soil to be excavated, or both

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(d) the effect of the proposed development on the existing and likely amenity of adjoining properties

Comment: The proposed earthworks will not result in unreasonable amenity impacts on adjoining properties. Conditions have been included in the recommendation of this report to limit impacts during excavation/construction.

(e) the source of any fill material and the destination of any excavated material

Comment: The excavated material will be processed according to the Waste Management Plan for the development. A condition has been included in the recommendation of this report requiring any fill to be of a suitable quality.

(f) the likelihood of disturbing relics

Comment: Given the historical use of the site for residential purposes and the limited extent of excavation proposed it is extremely unlikely the relics will be disturbed.

(g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area

Comment: The site is not located in the vicinity of any drinking water catchment or environmentally sensitive areas and is unlikely to have a negative impact on any watercourse.

(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development

Comment: Conditions are included in the recommendation of this report that will minimise the impacts of the development.

6.4 Stormwater management

Clause 6.4 Stormwater Management requires that development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(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

Comment: The development will provide a suitable amount of permeable surfaces given the zoning of the land and the proposed use. In this regard, the design will maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water.

(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and

Comment: On-site stormwater retention is not required for this development. The proposed development is supported by suitable stormwater management plans. These plans have been reviewed as acceptable by Council's Development Engineer and included in the recommendation.

(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.

Comment: The proposal has been assessed by Council's Development Engineers who have raised no objections to approval, subject to conditions. In this regard, the development will minimise any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters.

Manly Development Control Plan 2013 (MDCP 2013)

Built form controls

| Built form controls – site area: 651.3sqm | Requirement | Proposed | % Variation | Complies |
|---|---------------------------------------|--|--------------------|-----------------|
| 4.1.1.1 Residential density and dwelling size | Density: 1 dwelling per 500sqm | 1 dwelling per 651.3sqm | - | Yes |
| | Dwelling size: Min. 90sqm | 253.2sqm | - | Yes |
| 4.1.2.1 Wall height | North: 8.0m (based on gradient 1:3.4) | 3.8m | - | Yes |
| | South: 7.7m (based on gradient 1:5.1) | 4.5m | - | Yes |
| 4.1.2.2 Number of storeys | 2 storeys | 2 storeys | - | Yes |
| 4.1.4.2 Street front setbacks | Prevailing building line / 6m | 9.3m, consistent with prevailing setback | - | Yes |
| 4.1.4.2 Side setbacks and secondary street frontages (based on wall height) | North: 1266mm | 1850mm | - | Yes |
| | South: 1500mm | Sunroom: 3550mm Garage: Nil | - 100% | Yes No |
| 4.1.4.4 Rear setbacks | 8m | 16.7m | - | Yes |

| Built form controls – site area: 651.3sqm | Requirement | Proposed | % Variation | Complies |
|---|--|------------------|--------------------|-----------------|
| 4.1.5.1 Minimum residential total open space requirements. Residential Open Space Area: OS3 | Total open space: Min. 55% of site area (358.2sqm) | 68.7% (447.5sqm) | - | Yes |
| 4.1.5.2 Landscaped area | Landscaped area: Min. 35% of total open space (125.4sqm) | 42.9% (279.5sqm) | - | Yes |
| 4.1.5.3 Private open space | 18sqm | 321sqm | - | Yes |
| 4.1.6.1 Parking design and the location of garages, carports or hardstand areas | Maximum 50% of site frontage up to a maximum 6.2m | 3.35m | - | Yes |
| Schedule 3 Parking and access | Dwelling 2 spaces | 1 space | 100% | Existing |

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

Compliance Assessment

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|--|-------------------------------------|------------------------------------|
| 3.1 Streetscapes and townscapes | Yes | Yes |
| 3.1.1 Streetscape (residential areas) | Yes | Yes |
| 3.3.1 Landscaping design | Yes | Yes |
| 3.3.2 Preservation of trees or bushland vegetation | Yes | Yes |
| 3.4 Amenity (views, overshadowing, overlooking / privacy, noise) | Yes | Yes |
| 3.4.1 Sunlight access and overshadowing | Yes | Yes |
| 3.4.2 Privacy and security | Yes | Yes |
| 3.4.3 Maintenance of views | Yes | Yes |
| 3.5 Sustainability (greenhouse energy efficiency, thermal performance, and water sensitive urban design) | Yes | Yes |
| 3.5.1 Solar access | Yes | Yes |
| 3.5.3 Ventilation | Yes | Yes |

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| 3.5.5 Landscaping | Yes | Yes |
| 3.5.7 Building construction and design | Yes | Yes |
| 3.5.8 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 |
| 4.1.1 Dwelling density, dwelling size and subdivision | Yes | Yes |
| 4.1.1.1 Residential density and dwelling size | Yes | Yes |
| 4.1.2 Height of building (incorporating wall height, number of storeys and roof height) | Yes | Yes |
| 4.1.3 Floor space ratio (FSR) | Yes | Yes |
| 4.1.4 Setbacks (front, side and rear) and building separation | No | Yes |
| 4.1.5 Open space and landscaping | Yes | Yes |
| 4.1.6 Parking, vehicular access and loading (including bicycle facilities) | Yes | Yes |
| 4.1.8 Development on sloping sites | Yes | Yes |
| 4.4.5 Earthworks (excavation and filling) | Yes | Yes |

Detailed Assessment

3.1 Streetscapes and townscapes

The proposal includes a bin platform measuring 2.5m x 1.5m located on the front property boundary. The location is practical in that the site slopes steeply down from the street and the bin platform allows for bins to be easily placed on the street on collection days.

The bin platform is located behind a dense hedge and is well screened from the street, as shown in the following photograph:



Photograph 1: Hedge in front of property.

The proposed bin platform satisfies the objectives of Part 3.1 of the MDCP 2013:

Objective 1) To minimise any negative visual impact of walls, fences and carparking on the street frontage.

Comment: The existing hedge ensures that the bin platform does not have a negative visual impact.

Objective 2) To ensure development generally viewed from the street complements the identified streetscape.

Comment: The development on the site continues to make a positive contribution to the streetscape due to the dense landscaping provided by the existing hedge.

Objective 3) To encourage soft landscape alternatives when front fences and walls may not be appropriate.

Comment: The hedge is a soft landscape alternative to a front fence.

In these circumstances it is considered that the location of the bin platform is acceptable.

4.1.4.2 Side boundary setbacks

The proposed garage is set on the southern side boundary with a nil setback. It replaces the existing carport which is in essentially the same location, as shown in the following photograph:



Photograph 2: Existing carport on nil setback to southern side boundary.

Part 4.1.4.2 of MDCP 2013 requires a minimum side setback of 1/3 of the wall height, which in this case is 1.5m.

Notwithstanding the numerical non-compliance, the proposal satisfies the objectives of the side boundary setback 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 streetscape is maintained, with the existing dense hedging enhancing the streetscape and the character of the area.

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: Local amenity is maintained. The garage has no windows and so creates no privacy impacts. Sunlight access is maintained to the neighbour's private open space and living room glazing in excess of the requirements of the MDCP 2013. There is no impact on views. The pattern of the streetscape is maintained, with the garage set back at the building line and the hedge providing screening from the street. Adequate visibility is maintained and the street has low traffic volumes.

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

Comment: The flexibility provided by the controls enables the garage to be located at the side of the building rather than within the front setback, ensuring the streetscape is maintained.

Objective 4) To enhance and maintain natural features by:

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

Comment: The proposal results in no impact on natural features.

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

Comment: The site is not identified as being prone to bush fire.

In summary, the proposed side setback for the garage is considered to be acceptable in the circumstances of the case.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal has an estimated cost of works of less than \$100,000 and consequently no levy is payable under clause 2.7 of the Northern Beaches Section 7.12 Contributions Plan 2019.

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;
- Manly Local Environment Plan 2013;
- Manly Development Control Plan 2013; and
- Codes and Policies of Council.

The proposal has been assessed against the relevant matters for consideration under Sections 4.15 of the EP&A Act 1979. This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, and all other documentation supporting the application.

Having completed this assessment, 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

The assessment concludes that the proposal fully satisfies the aims and objectives of the relevant planning controls and merits approval subject to the conditions included in the attached recommendation.

RECOMMENDATION

That Council as the consent authority grant Development Consent to Application No. DA2020/0262 for alterations and additions to the existing dwelling house at Lot 120, DP 526584, 4 Bungaloe Avenue, BALGOWLAH HEIGHTS, 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 |
| 8278/19 Sheet 1 | 20.11.2019 | M Groupe. |
| 8278/19 Sheet 2 | 20.11.2019 | M Groupe. |
| 8278/19 Sheet 3 | 20.11.2019 | M Groupe. |
| 8278/19 Sheet 4 | 20.11.2019 | M Groupe. |
| 8278/19 Sheet 5 | 20.10.2019 | M Groupe. |
| 8278/19 Sheet 6 | 20.10.2019 | M Groupe. |
| 8278/19 Sheet 7 | 20.10.2019 | M Groupe. |
| 8278/19 Sheet 8 | 20.10.2019 | M Groupe. |

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| 8278/19 Sheet 9 | 20.11.2019 | M Groupe. |
| 8278/19 Sheet 10 | 20.11.2019 | M Groupe. |
| 8278/19 Sheet 14 | 20.11.2019 | M Groupe. |
| Boral Sampler | | |

| Reports / Documentation – All recommendations and requirements contained within: | | |
|---|---------------|--------------------|
| Report No. / Page No. / Section No. | Dated | Prepared By |
| Statement of Environmental Effects | November 2019 | Sam C. S. LAI |
| BASIX Certificate A363879_02 | 26.02.2020 | Sam C. S. LAI |

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

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. Approved Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

| Other Department, Authority or Service | EDMS Reference | Dated |
|---|---------------------------|--------------|
| Ausgrid | Response Ausgrid Referral | 4 May 2020 |

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other Department, Authority or Body's.

3. 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

4. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7 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 removal of materials/buildings/structures 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) 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.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

- (i) 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.
- (i) 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.
- (k) 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 2008
 - (iv) Australian Standard AS1926 Swimming Pool Safety
 - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
 - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
 - (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
 - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
 - (4) Swimming pools and spas must be registered with the Division of Local Government.

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

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

5. Stormwater Disposal

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's MANLY SPECIFICATION FOR ON-SITE STORMWATER MANAGEMENT 2003.

Details that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification 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 development.

6. 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.

7. Stormwater Disposal

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required. All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

(a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and

(b) Comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

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

Reason: To provide public and private safety.

8. Sydney Water "Tap In"

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

submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

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

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

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

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

9. Waste Management Plan

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

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

Reason: To ensure that any demolition and construction waste, including excavated material, is reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

10. Tree protection

- (a) Existing trees which must be retained
 - i) All trees located on the subject site
 - ii) All trees located on adjoining land
- (b) Tree protection
 - i) No tree roots greater than 50mm diameter are to be cut from protected trees unless authorised by a qualified Arborist on site.
 - ii) All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by a qualified Arborist on site.
 - iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites, with particular reference to Section 4 Tree Protection Measures.
 - iv) All tree pruning within the subject site is to be in accordance with MDCP2013 Clause E1 Private Property Tree Management and AS 4373 Pruning of amenity trees
 - v) All tree protection measures, including fencing, are to be in place prior to commencement of works.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

11. 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.

12. 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.

13. 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.

14. Installation and Maintenance of Sediment Control

Measures used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Council's Specifications for Erosion and Sediment Control. All measures shall remain in proper operation until all development activities have been completed and the site fully stabilised.

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

Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

15. Site filling – Virgin Excavated Material (VENM)

Where site fill material is necessary, fill materials must:

1. be Virgin Excavated Natural Material (VENM) only, as defined in: The Protection of the Environment Operations Act 1997; and
2. be free of slag, hazardous, contaminated, putrescibles, toxic or radioactive excavated material and soil, rock or similar material. Putrescibles and non-putrescibles solid waste (including demolition material) is not permitted.

Reason: To ensure protection of the natural environment

16. Tree and vegetation protection

- a) Existing trees and vegetation shall be retained and protected as follows:
 - i) all trees and vegetation within the site identified on the Site Plan and the Survey Plan, excluding exempt 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 generally undertaken as follows:
 - i) all tree protection shall be in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4,
 - ii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF Level 5 Arborist,
 - iii) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an Arborist. Details including photographic evidence of works undertaken shall be submitted by an AQF Level 5 Arborist to the Certifying Authority,
 - iv) to minimise the impact on trees and vegetation to be retained and protected, 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) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a Project Arborist on site,
 - vi) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
 - vii) excavation for stormwater lines is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist,
 - viii) should either or all of v), vi) and vii) occur during site establishment and construction works, a AQF Level 5 Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
 - ix) 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 AS 4970-2009,
 - x) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.

- c) All protected trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed by approval must be replaced with a locally native canopy tree.

Note: Any request to remove a tree approved for retention under the development application is subject to a Section 4.55 modification application, or an assessment by a AQF level 5 Arborist that determines that the tree presents an imminent risk to life or property.

Reason: to retain and protect significant planting on development and adjoining sites.

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

17. 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.

18. Removal of All Temporary Structures/Material and Construction Rubbish

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

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 bushland management.

19. Waste Management Confirmation

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

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