

STATEMENT OF ENVIRONMENTAL EFFECTS

143 BALGOWLAH ROAD, BALGOWLAH

**DEMOLITION AND CONSTRUCTION OF AN ATTACHED
DUAL OCCUPANCY, FRONT FENCE AND TORRENS
TITLE SUBDIVISION**

**PREPARED ON BEHALF OF
MS VENESS & MR SAGLAM**

JULY 2021

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1. INTRODUCTION

This application seeks approval for the demolition of the existing structures and construction of an attached dual occupancy and Torrens title subdivision on Lot 17 in DP 96362 which is known as **No. 143 Balgowlah Road, Balgowlah**.

In preparation of this development application consideration has been given to the following:

- Environmental Planning & Assessment Act, 1979.
- Manly Local Environmental Plan 2013.
- Manly Development Control Plan 2013.

The following details and documents have been relied upon in the preparation of this document:

- Survey Plan prepared by 3D Surveying, Ref No. 2016 and dated 17/03/2020.
- Architectural Plans prepared by Scope Architects, Project No. 02001, Revision 1 and dated 02/06/2021.
- BASIX Certificate #1206080M_02 and dated 6 July 2021.
- Arboricultural Impact Assessment prepared by Aura Tree Services and dated May 2021.
- Stormwater Management Plan prepared by Approved Consulting Engineers, Job No. 2021080 and dated 11/05/2021.
- Geotechnical Investigation prepared by White Geotechnical Group, Job No. J3377 and dated 29 April 2021.

This Statement describes the subject site and the surrounding area, together with the relevant planning controls and policies relating to the site and the type of development proposed. It provides an assessment of the proposed development against the heads of consideration as set out in Section 4.15 of the Environmental Planning and Assessment Act 1979. As a result of that assessment it is concluded that the development of the site in the manner proposed is considered to be acceptable and is worthy of the support of the Council.

2. BACKGROUND

A Pre-Lodgement Meeting was held with Council on 18 March 2021. The following issues were discussed and have been addressed as summarised below:

LEP Clause 4.1 Minimum Lot Size

The proposal seeks approval for the subdivision of the proposed attached dual occupancy. The subdivision results in a very minor non-compliance with the minimum lot size of the Manly LEP. A Clause 4.6 Variation is included in Appendix A of this statement.

Overshadowing

Shadow diagrams have been submitted with the application. Given the north-south orientation of the allotment the proposal ensures adjoining properties will receive the required amount of solar access.

Privacy and Security

The proposal provides for all high use living areas on the ground floor, with only bedrooms and bathrooms on the upper level. The proposal provides for highlight windows to the side elevations of the rear bedrooms, with the remaining windows offset from the windows of the adjoining properties. The proposal ensures an appropriate level of privacy to the adjoining properties.

Setbacks

The setbacks proposed have been discussed in detail in the Statement of Environmental Effects.

Parking

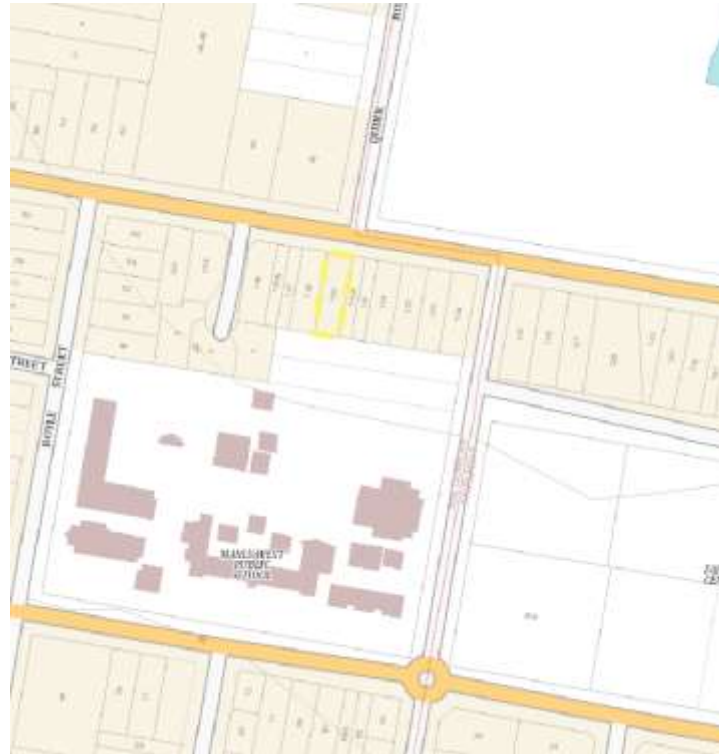
The proposal provides for 2 parking spaces for each dwelling, which includes 1 at grade space forward of the development for each dwelling. This is discussed in the Statement of Environmental Effects. In summary this does not result in any adverse impact on the streetscape or the adjoining properties. Further it is compatible with the character of the locality with a number of properties having at grade parking forward of the main dwelling structures.

Heritage

The proposal retains the existing street tree which is part of a group of trees identified as a local heritage item. An Arboricultural Impact Statement has been submitted with the application.

3. SITE DESCRIPTION AND LOCALITY

The site is identified as Lot 17 in DP 9362 which is known as No. 143 Balgowlah Road, Balgowlah. The site is a rectangular shaped allotment located at the southern side of Balgowlah Road. The site has an area of 490.5m² with a frontage of 12.19m to Balgowlah Road and a depth of 40.235m. The locality is depicted in the following map:



Site Location Map

The property has a very slight slope from the rear boundary (RL10.89) towards the street frontage (RL9.07) with a total fall of approximately 1.82m. The site is currently occupied by a part single and part two storey brick and metal roof dwelling. A detached garage/outbuilding is located towards the rear southwest corner of the site. Vehicular access to the site is via concrete driveway located adjacent to the western side boundary.

There is no significant vegetation on site. A tree is located on Council's Road Reserve. An Arboricultural Report has been prepared and submitted with the application. As a result of that report the architectural plans have been amended to provide two separate driveways and retain the exiting street tree.

The site is depicted in the following photographs:

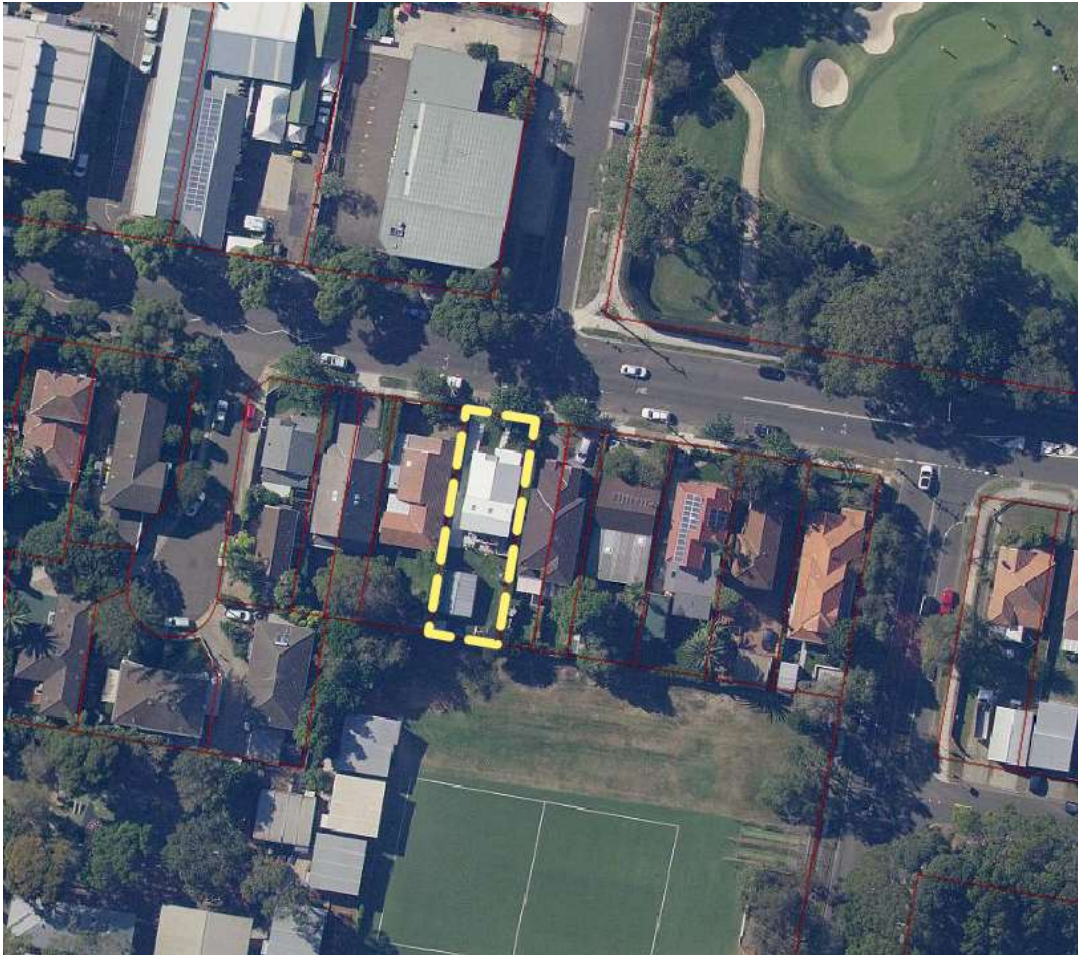


View of the existing development on site from Balgowlah Road



Existing Streetscape

The existing surrounding development comprises a variety of single and two storey dwellings, attached dwellings and two storey apartment buildings on similar sized allotments. The sites rear boundary adjoins Manly West Public School. There are a number of dual occupancy developments that have been subdivided, in particular, No. 141 Balgowlah Road (immediately to the east) and No. 147 Balgowlah Road (to the west). The existing surrounding development is depicted in the following aerial photograph:



Aerial Photograph of Locality

4. THE DEVELOPMENT PROPOSAL

This proposal seeks approval for the demolition of the existing dwelling and construction of an attached dual occupancy and Torrens title subdivision. The development will be constructed of a mixture of stone and lightweight cladding with a pitched metal roof. A new front fence is also proposed along the street frontage.

The proposed development will be provided with a setback of 6.3m to Balgowlah Road as measured from the wall of the dwelling. Setbacks of 0.9m are provided to the sites eastern and western side boundaries as measured from the ground floor level. The upper level is provided with increased setbacks, ranging from 1.56m to 2.25m to both the eastern and western boundaries.

The layout of each dwelling comprises the following:

Ground Floor: Entry, laundry, WC, kitchen, dining and living room.
First Floor: Four bedrooms (main with ensuite) and bathroom.

All collected stormwater will be directed to the street gutter in Balgowlah Road via a combined OSD and rainwater reuse tanks in accordance with Council controls and the Stormwater Management Plans prepared by Approved Consulting Engineers.

A new front fence is proposed along the street frontage. The fence is to be constructed of masonry and timber slats. The fence has a height ranging from 1.6m to 1.8m

The proposal also seeks approval for the Torrens Title subdivision of one lot into two. The proposed boundary will be consistent with the proposed built form and result in the following allotments:

Proposed Lot 1: 254.3m²
Proposed Lot 2: 254.2m²

The proposal will result in the following numerical indices:

Site Area: 490.5m²
Proposed FSR: 294.6m² or 0.6:1
Total Open Space: 268.6m² or 55%
Landscaped Space: 140m² or 54% of the total open space.
Proposed Lot 1 Site Area: 245.3m²
Proposed Lot 2 Site Area: 245.2m²

5 ZONING & DEVELOPMENT CONTROLS

The proposed development is identified as development requiring the consent of the Council under the provisions of the Environmental Planning and Assessment Act 1979, as amended. The following is an assessment of the proposal against the relevant provisions of the Act and all of the relevant planning instruments and policies of Manly Council.

5.1 Planning for Bushfire Protection 2006



Extract of Bushfire Map

The subject site is not identified as bushfire prone land on Council's Bushfire Prone Land Map and therefore the provisions of Planning for Bushfire Protection 2006 do not apply to the proposed development.

5.2 Manly Local Environmental 2013



Extract of Zoning Map

The subject site is zoned R1 General Residential. The objectives of the R1 Zone are as follows:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

It is considered that the proposed development to provide an attached dual occupancy which are permissible in this zone achieves these objectives by:

- Ensuring the proposal compliments the existing streetscape and the existing surrounding properties.
- Retaining the existing amenity to the surrounding residences.
- Providing a development that is compatible in terms of bulk, scale and height to surrounding properties

The following numerical standards are applicable to the proposed development:

Clause	Development Standard	Proposal	Compliance
Clause 4.1 Minimum Allotment Size	250m ²	Lot 1: 245.3m ² Lot 2: 245.2m ²	See Clause 4.6 Variation in Appendix 1.
Clause 4.3 Height of Buildings	8.5m	7.75m	Yes
Clause 4.4 Floor Space Ratio	0.6:1	294.6m ² or 0.6:1	Yes

Clause 5.10 Heritage Conservation

The subject site is not heritage listed nor is it located within a conservation area. However, the street trees within this portion of Balgowlah Road are identified as a local heritage item. The proposal has been designed to retain the existing tree within the Council's road reserve. An Arborist Report has been submitted in this regard. The proposal complies with this clause.



Extract of Heritage Map

Clause 6.1 Acid Sulfate Soils

The site is identified as Class 5 on Council's Acid Sulfate Soils Map. The proposal does not result in any significant excavation and the land is not below 5m AHD and will not impact the water table.

There are no other specific clauses that specifically relate to the proposed development.

4.3 Manly Residential Development Control Plan 2013

The Manly DCP 2013 applies to all land where the LEP applies. Therefore, the DCP applies to the subject development.

Part 3

Part 3 provides general principles applying to all development and Part 4 outlines development controls for specific forms of development including residential. The relevant provisions of **Part 3** are summarised below:

Clause 3.1.1 – Streetscape (Residential Areas)

The proposal provides for the demolition of the existing structures and construction of an attached dual occupancy and Torrens title subdivision. The development presents as an attached dwelling that are well articulated through the use of balconies, varied finishes, setbacks and modulation.

It is considered that the proposal provides for a development that is compatible with the existing surrounding streetscape which comprises a mixture of single storey post-war red brick bungalows and two storey modern development (90's onwards) with a number of dual occupancy style developments.

Particular note is made to No. 141 and No. 147 Balgowlah Road, both of which comprise attached dual occupancies with parking in the front facade.

The development will be compatible with the style and form of the surrounding dwellings by providing appropriate front setback and modulation of the front facade.

Clause 3.3 - Landscaping

The proposal provides ample area of the site for landscaping. It is noted that the design of the front setback and driveway area has ensured that the existing street tree within the road reserve will be retained. An Arboricultural Impact Assessment Report has been prepared and is submitted with the application.

The proposal does not require the removal of any significant vegetation.

Clause 3.4 - Amenity (Views, Overshadowing, Overlooking/Privacy, Noise)

The objectives of the clause are noted as:

- | | |
|---------------------|---|
| <i>Objective 1)</i> | <i>To protect the amenity of existing and future residents and minimise the impact of new development, including alterations and additions, on privacy, views, solar access and general amenity of adjoining and nearby properties.</i> |
| <i>Objective 2)</i> | <i>To maximise the provision of open space for recreational needs of the occupier and provide privacy and shade.</i> |

It is suggested that the works will achieve these objectives as:

- The proposal provides for all high use living areas on the ground floor with only bedrooms and bathrooms on the upper level. This ensures that reasonable privacy to the adjoining properties is maintained.
- The first floor provides for balconies however these balconies serve only bedrooms and are provided with appropriate setbacks. Further the dimension of these balconies is such that they are not conducive to outdoor entertaining.
- Shadow diagrams have been prepared. The proposal will continue to maintain at least 3 hours of solar access to the internal living areas and rear private open space of the adjoining properties.
- The subject and surrounding properties do not currently enjoy any significant views and therefore there will be no impact on existing views.

Clause 3.5 - Sustainability

A BASIX Certificate has been submitted with the application.

Clause 3.7 - Stormwater Management

All collected stormwater will continue to be connected to the street gutter in Balgowlah Road in accordance with Council controls and the Stormwater Management Plan prepared by Approved Consulting Engineers.

Part 4

The following numerical provisions of **Part 4** are considered relevant to the proposal:

Clause/ Design Element	DCP Requirement	Compliance/Comments
Residential Density & Subdivision	Density Area D3 – 1 dwelling per 250m ²	<p>The current site has an area of 490.5m². The proposed dual occupancy and Torrens title subdivision will provide for the following allotments:</p> <p>Lot 1: 245.3m² Lot 2: 245.2m²</p> <p>This results in a very minor non-compliance of less than 5m² per allotment. This non-compliance is discussed in detail in the Clause 4.6 Variation included in Appendix 1.</p>
Floor Space Ratio	Refer to LEP 0.6:1	<p>Yes</p> <p>Proposal provides for a gross floor area of 294.6m² or 0.6:1.</p>
Wall Height	Height – 6.5m	<p>Yes</p> <p>The proposal provides for a maximum wall height of approximately 5.64m.</p>
Number of Storeys	Two Storeys	<p>Yes</p> <p>Proposal provides for a two storey development.</p>
Roof Height	2.5m above wall height	<p>Yes</p> <p>Roof height 2.2m.</p>
Parapet Height: 600mm above wall height.	600mm above wall height	Not Applicable

Clause/ Design Element	DCP Requirement	Compliance/Comments
Maximum Roof Pitch	35°	Yes 25 degree roof pitch provided.
Building Setbacks	Front Setback – Min. 6.0 metres or consistent with neighbouring.	Yes A setback of 6.3m is provided from the wall of the development to the street frontage. It is noted that the upper level balcony is provided with a setback of 5.42m. These elements provide for architectural relief and visual interest. It is considered that this setback is appropriate and complements the streetscape.
	Secondary setback – same as side boundary setback	Not applicable
	Side Setback – 1/3 of the height of wall.	A setback of between 1.7m and 1.88m is required to the side boundaries. The proposal provides for setbacks of 0.9m from the ground floor level and between 1.56m and 2.2m from the first floor level. The setbacks as proposed are considered appropriate in this instance for the following reasons: <ul style="list-style-type: none"> • The ground floor setback is appropriate given that there is no opportunity for overlooking from this level. • The upper level is provided with increased setbacks which provides for an articulated built form. • The first floor level is provided with varied setbacks to the side boundaries. This reduces massing and bulk. • The non-compliance is very minor being only 300mm.

Clause/ Design Element	DCP Requirement	Compliance/Comments
	<p>Walls without windows may be constructed to one side boundary only, providing the objectives of this part can be met and the applicant can demonstrate no disadvantage to the adjacent allotment through increased overshadowing, or loss of view and no impediment to property maintenance.</p> <p>Rear Setback – Minimum 8.0 metres</p>	<ul style="list-style-type: none"> The non-compliance does not result in a loss of privacy, with all high use living areas on the ground floor and minimal windows on the side elevations. The proposed development ensures at least 3 hours of solar access to the private open space of the adjoining properties. <p>Not Applicable</p> <p>Yes A setback of 12.1m is provided to the rear boundary.</p>
Landscaping/Open Space	<p>Open Space Area 3: Minimum total open space: 55% of site area.</p> <p>Minimum soft open space as 35% of total open space: 40%</p> <p>Minimum number of endemic trees: 2</p>	<p>Yes Proposal provides for the following: Total Open Space: 268.6m² or 55% of site area. Soft Open Space: 140m² or 54% of total open space.</p> <p>Yes There is sufficient area for landscaping including canopy trees.</p>

Clause/ Design Element	DCP Requirement	Compliance/Comments
	Private open space to be directly accessible from living areas. Minimum dimension 3m. Minimum area of 18m ² .	Yes There is ample area of private open space in the rear yard. This area is of sufficient dimension and is directly accessible from the internal living areas.
Parking and Access	<p>Minimum 2 Spaces per Dwelling.</p> <p>Garages/carports shall be sited so as to not dominate the street frontage through the use of appropriate materials.</p> <p>Carports forward of the building line shall be open on all sides.</p> <p>Maximum width of structures forward of the building line is 6.2m or 50% of site width whichever is the greater.</p>	<p>Yes</p> <p>Each dwelling is provided with 2 car parking spaces incorporating one within a garage and an additional space in a stacked arrangement at grade. This is consistent with the other examples in the vicinity and was supported at the pre-lodgement meeting.</p> <p>N/A</p> <p>N/A</p>
First Floor Additions	Additions may follow the existing ground floor wall setbacks providing adjoining properties are not adversely impacted by overshadowing, view loss or privacy issues. Must retain the existing scale and character of the street and should not degrade the amenity of surrounding residences	Not Applicable

Clause/ Design Element	DCP Requirement	Compliance/Comments
Fences	Maximum height 1.0m for solid Maximum height 1.5m where at least 30% is transparent.	<p>The proposal provides for a new front fence with a height that ranges from 1.6m to 1.8m which is appropriate in this instance for the following reasons:</p> <ul style="list-style-type: none"> • Balgowlah Road is a street with high traffic flow and provides a transition between residential and industrial areas. <p>The proposed fence will provide an appropriate level of privacy and security having regard to these characteristics.</p> <ul style="list-style-type: none"> • The fence proposed is compatible with the fencing in this portion of Balgowlah Road. • The fence comprises masonry with timber slat infills which is an appropriate open style fencing.

There are no other provisions of the Manly DCP that apply to the proposed development.

6. EP & A ACT - SECTION 4.15

The Provisions of any Environmental Planning Instruments

The proposal is subject to the provisions of the Manly Local Environmental Plan 2013 and the Manly DCP 2013. It is considered that the provisions of these documents have been satisfactorily addressed within this report.

There are no other environmental planning instruments applying to the site.

The Likely Impacts of the Development

It is considered that the development will provide for a dual occupancy development without detrimentally impacting on the character of the area. The proposal does not result in the removal of any significant vegetation and provides ample area of the site for landscaping. The design of the proposal is such that they do not result in any unreasonable loss of privacy.

The Suitability of the Site for the Development

The subject site is zoned R1 General Residential and the construction an attached dual occupancy in this zone are permissible with the consent of Council. The resultant development is of a bulk and scale that is consistent with existing surrounding developments. The proposal does not result in the removal of any significant vegetation.

For these reasons it is considered that the site is suitable for the proposed development.

The Public Interest

It is considered that the proposal is in the public interest in that it will provide for an alternative form of housing that is consistent with other development in this locality without unreasonably impacting the amenity of the adjoining properties or the public domain.

7. CONCLUSION

This application seeks approval for the demolition of the existing structures and construction of a attached dual occupancy and subdivision. As demonstrated in this report the proposal is consistent with the aims and objectives of the Manly Local Environmental Plan 2013 and the Manly DCP 2013. The proposal does not have any detrimental impact on the amenity of the adjoining properties or the character of the locality.

It is therefore considered that the proposed demolition and construction of a attached dual occupancy and subdivision upon land at **No. 143 Balgowlah Road, Balgowlah** is worthy of the consent of Council.

Natalie Nolan
Grad Dip (Urban & Regional Planning) Ba App Sci (Env Health)
Nolan Planning Consultants
July 2021

**APPENDIX 1
OBJECTION PURSUANT TO CLAUSE 4.6 OF MANLY LOCAL
ENVIRONMENTAL PLAN 2013**

**VARIATION OF A DEVELOPMENT STANDARD REGARDING THE MINIMUM
SUBDIVISION LOT SIZE AS DETAILED IN CLAUSE 4.1 OF THE MANLY
LOCAL ENVIRONMENTAL PLAN 2013**

For: Attached Dual Occupancy
At: 143 Balgowlah Road, Balgowlah
Owner: Nonie Veness & Pasa Saglam
Applicant: Nonie Veness & Pasa Saglam

The subject development application relates to the construction of an attached dual occupancy and the two lot Torrens title subdivision of land at No. 143 Balgowlah Road, Balgowlah (**Site**). The subject property, which has a total lot size of 490.5m², is zoned R1 – General Residential under the Manly Local Environmental Plan 2013.

This Clause 4.6 written request is prepared on the basis of the architectural plans prepared by Scope Architects, Project No. 020001, Revision 1 and dated 05.05.2021.

The proposal seeks approval for a variation to the minimum subdivision lot size (**Minimum Subdivision Lot Size**) development standard in clause 4.1 of the Manly Local Environmental Plan 2013.

4.1 Minimum subdivision lot size

(1) The objectives of this clause are as follows—

- (a) to retain the existing pattern of subdivision in residential zones and regulate the density of lots in specific locations to ensure lots have a minimum size that would be sufficient to provide a useable area for building and landscaping,*
- (b) to maintain the character of the locality and streetscape and, in particular, complement the prevailing subdivision patterns,*
- (c) to require larger lots where existing vegetation, topography, public views and natural features of land, including the foreshore, limit its subdivision potential,*
- (d) to ensure that the location of smaller lots maximises the use of existing infrastructure, public transport and pedestrian access to local facilities and services.*

(2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.

(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

The Lot Size Map indicates that the minimum allotment size that applies to the Site and therefore to proposed Lot 1 and 2 is **250m²** for each allotment.

The lot sizes resulting from the proposed subdivision are:

Existing Lot Size:	490.5m²
Proposed Lot 1:	245.3m²
Proposed Lot 2:	245.2m²

The following clause 4.6 written request has been prepared having regard to clauses 4.1 and 4.6 of the Manly Local Environmental Plan 2013 and recent judgments of the Land & Environment Court. It is submitted that the variation is well founded and is worthy of the support of the Council.

1. Objectives of Clause 4.6

The objectives of Clause 4.6 of the LEP are:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

2. The standard to be varied is a Development Standard to which Clause 4.6 applies

Clause 4.1 of the Manly Local Environmental Plan 2013 is contained within Part 4 which is titled Development Standards to be complied with. It is also considered that the wording of the clause is consistent with previous decisions of the Land & Environment Court in relation to matters which constitute development standards.

It is also noted that clause 4.1 does not contain a provision which specifically excludes the application of clause 4.6 and vice a versa.

On this basis it is considered that clause 4.1 is a development standard for which clause 4.6 applies.

3. Compliance with the development standard is unreasonable or unnecessary in the circumstances of this case

Sub-clause 4.6(3) sets out the matters that must be demonstrated by a written request seeking to justify a contravention of the relevant development standard (that is not expressly excluded from the operation of clause 4.6 Manly Local Environmental Plan 2013):

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

In *Wehbe v Pittwater Council* [2007] NSWLEC 827, Preston CJ set out five justifications to demonstrate that compliance with a development standard is unreasonable or unnecessary. These include:

- The objectives of the development standard are achieved notwithstanding non-compliance with the standard.
- The underlying objective or purpose of the standard is not relevant to the development.
- The underlying objective or purpose would be defeated or thwarted if compliance was required.
- The standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and/or
- The zoning of the land was unreasonable or inappropriate such that the standards for that zoning are also unreasonable or unnecessary.

The objectives of the Minimum Lot Size standard are set out in clause 4.1(1) of Manly Local Environmental Plan 2013 and are as follows:

- (a) to retain the existing pattern of subdivision in residential zones and regulate the density of lots in specific locations to ensure lots have a minimum size that would be sufficient to provide a useable area for building and landscaping,*
- (b) to maintain the character of the locality and streetscape and, in particular, complement the prevailing subdivision patterns,*
- (c) to require larger lots where existing vegetation, topography, public views and natural features of land, including the foreshore, limit its subdivision potential,*
- (d) to ensure that the location of smaller lots maximises the use of existing infrastructure, public transport and pedestrian access to local facilities and services.*

Compliance with the Minimum Lot Size standard is unreasonable or unnecessary in the circumstances because the objectives of the standard are achieved notwithstanding the non-compliance, in light of the following:

- a. The proposal will result in lot sizes and dimensions which are able to accommodate development consistent with relevant development controls.
- b. The proposed allotment sizes are sufficient to provide a dwelling on each allotment that is of a useable/functional area and sufficient landscaping.

- This has been demonstrated with the dwelling designs and that the proposal complies with the landscaped area controls of the DCP.
- c. The proposal complies with the density provisions of the LEP.
 - d. There are no constraints of the site that would require larger allotments. The proposal retains the tree within the road reserve, there is no loss of significant views and there no natural features of the site which are required to be retained.
 - e. The site is well located in terms of public transport, being within close proximity of a number of bus stops. The site is also located in proximity to local facilities and services and the area is well serviced by pedestrian accessways.
 - f. Other than the proposed non-compliant lot size the proposal is considered to result in development which is otherwise compliant with the requirements of the Manly Local Environmental Plan 2013 & Manly DCP, particularly in relation to building height, floor space ratio and landscaped area.
 - g. The proposal will not result in any unreasonable impacts upon the amenity of the adjoining properties particularly in relation to visual and acoustic privacy or overshadowing as a result of the proposed lot size or the resultant development.
 - h. The proposed subdivision will not result in any unreasonable arboricultural impacts. The proposal does not result the removal of any significant vegetation and ensures the retention of the existing street tree.
 - i. The proposal will ensure that the resultant allotments reflect and reinforce the predominant subdivision pattern of the area. It is noted that the surrounding locality contains a number of similar attached dual occupancies that have been subdivided including No. 141/141A and No. 147/147A Balgowlah Road.
 - j. It is submitted that the proposal will provide for a compatible form of subdivision and will present to the street in a manner consistent with the existing streetscape, noting that the proposal allows for the retention of all vegetation located within the frontage of the property.

4. There are sufficient environmental planning grounds to justify contravening the development standard

The proposed development promotes the objectives identified in the Environmental Planning and Assessment Act 1979 section 1.3 in that the proposal will provide for the “promote the orderly and economic use of the land” and “good design and amenity of the built environment”.

Accordingly, the proposal promotes the objectives of the Environmental Planning and Assessment Act 1979 and there are also sufficient environmental planning grounds to justify the contravention of the Minimum Lot Size standard, which include:

- The non-compliance is very minor being only 4.8m² or a variation of 1.9%.
- The proposal is in the public interest as it has been demonstrated above that the proposal is consistent with the objectives for development in the zone and the objectives of the lot size development standard.

- The proposal will ensure the orderly and economic use of the land. The proposal enables the construction of two dwellings, to increase the housing stock and provide an alternative form of housing in the locality.
- The proposal provides for a design that is compatible with the existing surrounding development which comprises a range of development including No. 141/141A and No. 147/147A Balgowlah Road which both comprise attached dual occupancies that have been subdivided with similar allotment sizes.

5. Is the proposed development in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

The proposed development is consistent with the objectives of the Minimum Lot Size development standard, which is demonstrated in the analysis above.

The proposed development is also consistent with the R1 General Residential Zone objectives in Manly Local Environmental Plan 2013.

The objectives for the R1 – General Residential zone are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

In relation to the above objectives for the R1 – General Residential zone the proposal is consistent with those objectives given that:

1. The proposal provides for the housing needs of the community via the creation of an additional Torrens title allotment. The motivation behind the development is provide for a development that is compatible with the surrounding development, with a variety of housing types.
2. The proposal provides for an additional Torrens title allotment which is capable of providing for housing that is compatible with the existing environmental and built character of the locality. In support of this proposition, it is submitted that:
 - a. The proposal will not result in any unreasonable impacts upon the adjoining properties.
 - b. The proposal will not result in any adverse streetscape impacts.
 - c. The proposal will not result in any unreasonable impacts upon existing trees and vegetation and will not result in unreasonable tree loss.
 - d. The proposal will not result in any unreasonable overshadowing of adjoining properties.
 - e. The proposal will not result in any unreasonable visual or acoustic impacts upon adjoining properties.

- f. The proposal will not result in an unreasonable loss of outlook for any adjoining properties.
- g. The proposal will provide for a built form which is compatible with the surrounding locality.
- h. The proposal will provide for two dwellings which will provide for a high standard of residential amenity for both the future residents of the proposal and the adjoining properties.

As the proposal is consistent with the objectives of the Minimum Lot Size development standard and the objectives of the R1 General Residential Zone the proposed development is considered to be in the public interest in satisfaction of clause 4.6(4)(a)(ii).

6. Whether contravention of the development standard raises any matter of significance for state or regional environmental planning.

Sub-clause 4.6(4) requires that the consent authority is satisfied that the concurrence of the Planning Secretary has been obtained and sub-clause 4.6(5) enumerates matters that the Planning Secretary must consider in deciding whether to grant concurrence.

The Planning Secretary has given written notice dated 5 May 2020, attached to the Planning Circular PS 20-002, that the Planning Secretary's concurrence may be "assumed" for exceptions to development standards, subject to certain conditions contained in the notice. One circumstance where the Planning Secretary's concurrence cannot be assumed is where the development contravenes a numerical standard by greater than 10%.

The noncompliance with the Minimum Lot Size development standard for proposal is only 1.9%. This is no impediment to the granting of consent.

Further, it is my opinion that contravention of the standard does not raise any matters of significance for State or Regional environmental planning and there is no identifiable public benefit in maintaining the development standard.

7. Conclusion

This written request justifies the proposed variation to the Minimum Lot Size development standard in the terms required under clause 4.6 of Manly Local Environmental Plan 2013. In summary, the proposed variation in relation to the non-compliant allotment size is justified for the following reasons:

- The proposal will not result in any adverse streetscape impacts.
- The proposal will not result in any unreasonable impacts upon existing trees and vegetation and will not result in unreasonable tree loss.
- The proposal will not result in any unreasonable overshadowing of adjoining properties.
- The proposal will not result in any unreasonable visual or acoustic impacts upon adjoining properties.

- The proposal will not result in an unreasonable loss of outlook for any adjoining properties.
- The proposal will provide for a built form which is compatible with the surrounding locality.

Natalie Nolan
Graduate Diploma (Urban & Regional Planning)
Ba App Sci (Env Health & Bldg).