

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2020/0676
----------------------------	-------------

Responsible Officer:	Catriona Shirley
Land to be developed (Address):	Lot 32 DP 5769, 4 Dudley Street BALGOWLAH NSW 2093
Proposed Development:	Torrens title subdivision of 1 lot into 2 lots and construction of two semi detached dwellings
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:	Sam Sammour
Applicant:	Urbanesque Planning Pty Ltd

Application Lodged:	22/06/2020
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Other
Notified:	08/09/2020 to 22/09/2020
Advertised:	Not Advertised
Submissions Received:	5
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 843,707.00
---------------------------------	---------------

PROPOSED DEVELOPMENT IN DETAIL

The proposed development seeks consent for the demolition of the existing structures onsite, construction of a two semi detached dwellings and Torrens title subdivision of 1 lot into 2.

Each dwelling is two storey and will contain the following;

- Four (4) bedrooms
- Lounge
- Dining
- Family and living areas
- Terrace (alfresco area)
- Single garage
- Hardstand for additional parking

- Associated landscaping

During the assessment process it was identified that that application had been notified incorrectly as a dual occupancy, when in fact the application is for the construction of semi detached dwellings and a Torrens title subdivision of 1 lot into 2. As a result the application was re-notified in accordance with the Northern Beaches Community Participation Plan.

Additional information was also requested from the applicant in regards to Solar Access. The addition solar access plans, demonstrating the additional hours of 1pm, 2pm and 4pm provided further clarification on the extent of the impact of overshadowing the proposal had on the southern adjoining properties.

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 - 6.2 Earthworks

Manly Local Environmental Plan 2013 - 6.4 Stormwater management

Manly Local Environmental Plan 2013 - 6.12 Essential services

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 - 3.4.3 Maintenance of Views

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

SITE DESCRIPTION

Property Description:	Lot 32 DP 5769 , 4 Dudley Street BALGOWLAH NSW 2093
Detailed Site Description:	The subject site consists of one allotment located on the eastern side of Dudley Street, Balgowlah. The subject site is located within a R1 General Residential Zone as mapped within the Manly Local Environment Plan 2013.

The site is regular in shape with a surveyed area of 699.1sqm. The frontage measures 15.24m along Dudley Street with side boundaries of 45.87m. The rear of the subject site adjoins Balgowlah Golf Course.

The site currently accommodates a single-storey detached dwelling house and detached secondary dwelling, within a landscaped setting. The site is relatively level and contains a mix of vegetation types including low lying shrubs and canopy trees.

Surrounding development is characterised by an eclectic mix due to the different zones adjoining the subject site. As a result nearby development consists of detached dwelling houses to the north, multi dwelling housing to the south, and a golf course to the east.

Map:



SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant development applications for this site. The land has been used for residential purposes for an extended period of time.

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 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<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. <u>Clause 50(1A)</u> of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application. <u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information in regards to overshadowing and solar access was requested in this case. <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. <u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. <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. <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.

Section 4.15 Matters for Consideration'	Comments
	Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.
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	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report. (ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. (iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 08/09/2020 to 22/09/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 5 submission/s from:

Name:	Address:
Mr Paul Anthony Hayes	5 / 2 Dudley Street BALGOWLAH NSW 2093
Proprietors of Strata Plan 57467	C/- Premium Strata Pty Ltd Suite 3, Level 2 189 O'Riordan Street MASCOT NSW 2020
Mrs Catherine Elizabeth Bennett	1 / 2 Dudley Street BALGOWLAH NSW 2093
Mr Ian Barry Bennett	1 / 2 Dudley Street BALGOWLAH NSW 2093

Name:	Address:
Mr Alexander James Granville Lang Mrs Katrina Louise Hamilton Lang	2 / 2 Dudley Street BALGOWLAH NSW 2093

The following issues were raised in the submissions:

- ***Dilapidation risk including construction works***
- ***Building height/setbacks/bulk and scale in the streetscape***
- ***View impacts***
- ***Privacy***
- ***Overshadowing***
- ***Noncompliance with development controls***
- ***Other Manly DCP Manly LEP matters***
- ***Property Values***
- ***Landscaping***

The matters raised within the submissions are addressed as follows:

- ***Concern that the proposal will affect dilapidation to adjacent properties, including noise, dust and amenity impacts during demolitions and construction work hours.***

Comment:

An assessment of the proposal in regards to the slope, stability and site conditions in the context of the proposed works pursuant to Clause 6.2 Earthworks of MLEP is considered reasonable. Recommended conditions and standard conditions regarding excavation, construction methods (including OHS and compliance with relevant Australian Standards and the BCA) are imposed to address this issue. A dilapidation report will be required prior to works to ensure appropriate consideration/response to dilapidation risks for adjacent property assets (private and public). Site operational management including standard construction work hours, noise, dust, erosion control and the like are addressed by conditions and also form part of the Construction Certificate stage requirements and operational conditions.

In summary, this objection issue is not considered to warrant refusal of the application.

- ***Concerns with regard to height and impacts of the proposed two storey proposal on the southern adjoining properties.***

Comment:

The site is zoned for R1 General Residential land use (urban land) and is situated adjoining the B1 Neighborhood Centre to the south. The site adjoins Council owned land to the rear which is currently a golf course. Landscaping considerations have been addressed in detail by Council's Landscape Officer and subject to conditions, the proposal has a compliant landscaped area pursuant to the Manly DCP requirements.

The proposal is consistent with setback requirements pursuant to the Manly DCP and detailed consideration of this issues has been made under Clause 3.1.1 Streetscape (Residential area), Clause 4.1.4 Setbacks (front, side and rear) and Building Separation, within this report.

With regard to overdevelopment considerations, the building complies with the floor space ratio

(FSR) and dwelling density provisions under the Manly LEP and DCP. The proposal complies with the building height (including wall and maximum height controls). A landscape setting is provided for the building, including the use of landscaping with the front and rear of the subject site.

In summary, the proposal will alter the existing shadow pattern toward adjacent land, however the proposal is consistent with the objectives of the Manly DCP control to maintain reasonable solar access to adjacent land

- ***Concern that the overlooking potential toward adjacent townhouse properties.***

Comment:

This issue has been considered, including window near side boundaries and site levels to ensure no unreasonable privacy impacts arise in relation to surrounding land. Additional planting is provided and rooms and windows are appropriately located to ensure no unreasonable impact. High use areas such as living and kitchen areas are appropriately designed to maintain privacy to adjacent land with the principal outlook toward the east. Low use rooms (bedrooms) are appropriately located and have been designed to not create unreasonable privacy impacts to adjacent land including acceptable window placement / style along side setback areas. The windows on the northern and southern elevation, servicing the leisure rooms, have been conditioned to ensure overlooking is minimised.

Therefore, this issue does not warrant refusal of the application.

- ***Concerns with regard to view impacts created by the proposal for Units 1 and 5 Dudley Street overlooking the site.***

Comment:

The subject site and surrounding lands were inspected during a site visit to consider view sharing. Where direct access was not available, a direct view line was considered in best proximity and comparative consideration to view lines (including survey datum) analysis and taking into account particular submissions regarding views as received or identified following the notification of the application.

A detailed consideration of view sharing is provided within this report under Part 3.4.3 Maintenance of Views. In summary, the tree line outlook is not considered to be valued views, and as a result the proposal will have no impact on views from particular adjacent and surrounding properties as assessed pursuant to the view assessment criteria. On balance, the proposal is consistent with the objectives of the Manly DCP control and the LEC Planning Principle in relation to views and does not warrant refusal of the application.

- ***Concern that the proposal will create overshadowing impacts.***

Comment:

This issue has been considered pursuant to Part 3.5.1 Solar Access of the Manly DCP, including detailed consideration of the shadow diagrams provided by Metricon. In summary, the building height, orientation, setbacks, wall height do not create any unreasonable impact on adjacent land. Solar access between 9am and 3pm on 21 June for the private open space and adjacent amenity is appropriate for the residential environment.

This issue is not considered to warrant refusal of the application.

- ***Concern that the proposal is not consistent with listed elements of the Manly DCP and Manly LEP (as detailed in written submissions including matters outlined therein).***

Comment:

The assessment of the proposal has considered the submission matters in the context of the

proposed development and where appropriate the application information has addressed matters where clarification was sought in context with the relevant planning controls (with extensive and lengthy inclusions of the DCP / LEP). The matters raised have been considered in context to the application and addressed collectively where appropriate on balance with the whole of the LEP and DCP including context with the established pattern of surrounding development in the residential environment.

A detailed response is not required where it is considered conventional matters are addressed appropriately by standard conditions. This includes matters that are appropriate to the construction certificate stage (site works, safety, BCA, excavation management). In further addressing those matters, the applicant has responded and accommodated the submission concerns with a considered approach, including a reasonable design that limits building bulk, height and amenity impacts (privacy, views and the like).

This issue has therefore been considered by revisions to reasonably accommodate considerations by an inclusive design approach for the proposal. On balance the proposal is consistent with the objectives of the DCP and LEP and merit consideration has been made of the design in so far that issue is not considered to warrant refusal of the application subject to conditions.

- ***Concern has been raised that Development Applications should not be considered when properties are classified for compulsory acquisition.***

Comment:

The subject site is currently privately owned. There is no legal requirement nor planning legislation that prevents lodgement or consideration of a development application in this scenario.

As a result this matter does not warrant refusal of the application.

- ***Concern is raised to the reduction of surrounding property value as a result of the proposed works.***

Comment:

Change in property value as a result of development is not a planning matter for consideration under the Environmental Planning and Assessment Act 1979.

As a result this matter does not warrant refusal of the application.

- ***Concern is raised in regards to tree removal and landscaping elements of the proposal.***

Comment:

The inclusion of canopy trees is a requirement of the Manly DCP and the applicant has shown the landscape planting within the submitted landscaping plan. The landscaping plan includes the removal of one tree, and consideration of plant selection within the Dudley Road frontage. Generally, the proposal includes a mix of small and medium trees and mixed species that have a height commensurate with the landscape setbacks and are suitably spaced around the perimeter of the dwelling to provide a landscape setting.

In summary, it is considered that the landscaping plan and recommended tree planting will improve the landscaping on the subject site and not create an unreasonable impact on the amenity of surrounding land, subject to conditions as recommended.

This issue is not considered to warrant refusal of the application.

REFERRALS

Internal Referral Body	Comments
Landscape Officer	The proposal is for construction of an attached dual occupancy with subsequent Torrens title subdivision. The site contains existing trees and vegetation predominately at the rear of the property, which adjoins Balgowlah Golf Course, and is proposed for retention. One small existing tree (identified as T5) is proposed for removal within the frontage to accommodate the OSD hydraulic proposal. A landscape plan is provided with the application, and includes two small trees within the front yard and two medium sized trees within the rear yard. Conditions of consent shall be imposed to delete the nominated rear yard tree planting of Tuckeroo, which is a self-seeding tree, and replace with two locally native trees of a similar form and height. Council's Landscape Referral is satisfied that the landscape proposal, in consideration of the proposed landscape outcomes, provides adequate landscape treatment to soften the built form to satisfy the landscape controls of Manly DCP 2013, Section 3: General Principles of Development, and section 4: Development Controls and Development Types, as well as the objectives of 4.4.8 subdivision in terms of protecting natural features such as existing vegetation.
NECC (Development Engineering)	Development Engineering has no objection to the application subject to conditions of consent.
Parks, reserves, beaches, foreshore	The proposal is for construction of a two semi detached dwellings with subsequent torrens title subdivision. The site adjoins public land used as Balgowlah Golf Course. No access nor construction works are permitted upon the public land. The development lot is situated at a higher elevation to the public land and environmental control shall be a condition of consent to protect public land from construction sediment and soil erosion. All existing natural features within the public land shall not be impacted upon, including existing ground surfaces, vegetation and any utility services, and recreational and operational access. The proposal can be supported subject to conditions of consent.

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 55 - Remediation of Land

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

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 1098679M_02 dated 26 May 2020). The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	43
Thermal Comfort	Pass	Pass
Energy	50	54

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

SEPP (Infrastructure) 2007

Ausgrid

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

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

Comment:

The proposal was referred to Ausgrid. 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.

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	7.8m	-	Yes
Floor Space Ratio	0.5:1 (349.55sqm)	0.395:1 (276sqm)	-	Yes
Minimum Subdivision Lot Size	300sqm	Lot 1: 349.5sqm Lot 2: 349.5	-	Yes

Compliance Assessment

Clause	Compliance with Requirements
2.6 Subdivision—consent requirements	Yes
4.1 Minimum subdivision lot size	Yes
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
4.6 Exceptions to development standards	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.12 Essential services	Yes

Detailed Assessment

6.2 Earthworks

The objectives of Clause 6.2 Earthworks require 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:

The site is not mapped as being a potential location of Aboriginal or other relics.

(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 watercourse, drinking water catchment or environmentally sensitive areas.

(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

Under this clause, 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, Council is satisfied that 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 has been incorporated into the development.

(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, Council is satisfied that the development will minimise any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters.

6.12 Essential services

Under this clause, development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required:

- (a) the supply of water,*
- (b) the supply of electricity,*
- (c) the disposal and management of sewage,*
- (d) stormwater drainage or on-site conservation,*
- (e) suitable vehicular access.*

Comment:

The subject site is currently supplied with water, electricity and sewage services. The proposed development is supported by suitable stormwater management and vehicular access arrangements.

Manly Development Control Plan

Built Form Controls

Built Form Controls - Site Area: 699.1sqm	Requirement	Proposed	% Variation*	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwelling per 300sqm	2 dwellings per 699.1sqm	-	Yes
	Dwelling Size: Min. 117sqm	Min. 142sqm	-	Yes
4.1.2.1 Wall Height	North: 6.5m (based on flat gradient)	North: 6m	-	Yes
	South: 6.7m (based on 1:30 gradient)	South: 5.5m	-	Yes
4.1.2.2 Number of Storeys	2	2	-	Yes

4.1.2.3 Roof Height	Height: 2.5m	2.2m	-	Yes
	Pitch: maximum 35 degrees	20 degrees	-	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	6m, consistent with prevailing setback	-	Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	North: 2m (based on wall height)	1.925m	-	Yes
	South: 1.83m (based on wall height)	1.925m	-	Yes
	Windows: 3m	1.925m	35.83%	No
4.1.4.4 Rear Setbacks	8m	19.25m	-	Yes
4.1.4.6 Setback for development adjacent to LEP Zones RE1, RE2, E1 and E2	8m (rear boundary)	19.25m	-	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Total Open Space: Min. 55% of the site area (384.5sqm)	56.73% (396.5sqm)	-	Yes
	Above Ground: Max. 40% of TOS (158.64sqm)	Nil	-	Yes
4.1.5.2 Landscaped Area	Landscaped Area: Min. 35% of TOS (138.81sqm)	83.83% (332.4sqm)	-	Yes
	3 native trees	4 trees	-	Yes
4.1.5.3 Private Open Space	18sqm per dwelling	180sqm per dwelling	-	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Max. 50% of frontage (up to 6.2m)	3.2m (each dwelling)	-	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces	-	Yes

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	No	Yes
3.4.2 Privacy and Security	Yes	Yes
3.4.3 Maintenance of Views	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.5.1 Solar Access	Yes	Yes
3.5.3 Ventilation	Yes	Yes
3.5.5 Landscaping	Yes	Yes
3.5.7 Building Construction and Design	Yes	Yes
3.5.8 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
4.1.1.2 Residential Land Subdivision	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
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
4.4.8 Subdivision	Yes	Yes

Detailed Assessment

3.4.1 Sunlight Access and Overshadowing

Description of non-compliance

The property to the south Unit 1/5 Dudley Street is most affected by the proposed development in relation to solar access. The proposed development also leads to additional overshadowing to Unit 4 and Unit 5, 2 Dudley Street. However, these properties receive more than the required 3 hours of direct sunlight to the unit's windows and private open space between 9am and 3pm in midwinter. As a result, the proposal is reasonable in this regard.

The position of the subject site and Unit 1/5 Dudley Street is such that Unit 1/5 Dudley Street is already significantly constrained being located directly south of the subject site, with areas of private open space siting within the side setback.

Unit 1/5 Dudley Street has multiple areas of private open space over three levels. The private open space areas include a ground floor level courtyard to the west of the unit, a northern and eastern wrap around courtyard that adjoins the kitchen/dinning living area, a northern and eastern I-shape balcony on the first floor and a third level roof top terrace.

As per Clause 3.4.1 *Sunlight Access and Overshadowing* principal private open space means "*private*

open space located adjacent to living rooms, excluding bedrooms of a single area and dimension sufficient to enable it to usefully serve domestic outdoor functions for the exclusive use of the occupants of the dwelling."

As a result, the roof top terrace, first floor balcony and western courtyard area are technically not considered as principal private open space areas, however the overall solar access impact, including the impact to these areas is taken into consideration within the assessment.

The rooftop terrace will receive uninterrupted solar access all day, due to its elevation. It is also important to note that the ground floor wrap around courtyard and kitchen/dining room windows are currently self-shaded by the overhanging balcony above, with the existing wall on the northern elevation also contributing to overshadowing of the wrap around courtyard.

The submitted shadow diagrams demonstrate that Unit 1/5 Dudley Street has an increase to overshadowing as follows:

- At 9.00am Unit 1 is completely overshadowed by the proposal
- At 12noon the western front courtyard solar access is not impacted by the proposal, with areas of the wrap around courtyard and first floor balcony receiving areas of direct sunlight.
- At 1.00pm the northern and eastern wrap around courtyard and first floor balcony receive areas of direct sunlight, particularly in the north-west and south-east areas, with no impact to the western front courtyard.
- At 2.00pm the northern and eastern wrap around courtyard receiving areas of direct sunlight particularly in the north-west and south-east areas, with no impact to the western front courtyard.
- At 3.00pm the northern and eastern wrap around courtyard receives solar access to more than half of the courtyard (particularly within the south-eastern area), the first floor balcony receiving direct sunlight to most of the balcony area.
- At 4.00pm the northern and eastern wrap around courtyard and first floor wrap around balcony are overshadowed by a small amount on the north-eastern corner areas. There is no impact to the western front courtyard.

Subject to that merit assessment, consent may be granted where a proposal does not comply with the standard, provided the resulting development is consistent with the general principles of the development control, the desired future character of the locality and any relevant State Environmental Planning Policy.

The development is considered against the underlying objectives of the control as follows:

Objective 1) To provide equitable access to light and sunshine.

Comment:

The proposed development is compliant with all built form controls, with the exception of the setbacks to new windows. This non-compliance is acceptable for the reasons detailed in the section of this report relating to Clause 4.1.4 of the MDCP 2013. As such, while the proposed development reduces sunlight to Unit 1 of 2 Dudley Street, it is demonstrated to be reasonable in its context, and of bulk and scale anticipated for the subject site and locality. Further, the location of the affected unit is inherently vulnerable, given its location immediately south of where a two-storey development could be expected on the subject site. Given the proposed development's reasonableness and that afternoon sun is retained to the affected unit, the proposed impact is considered equitable on merit.

Objective 2) To allow adequate sunlight to penetrate:

- *private open spaces within the development site; and*
- *private open spaces and windows to the living spaces/ habitable rooms of both the development and the adjoining properties.*

Comment:

As above, the proposed development reduces solar access to the private open space of Unit 1, 2 Dudley Street, to between 9am and 3pm in midwinter. However, in consideration of the reasonableness of the proposed bulk and scale, the retention of afternoon sun to the affected unit, and that the affected unit is in a vulnerable location, the proposed development is acceptable in this regard.

Objective 3) To maximise the penetration of sunlight including mid-winter sunlight to the windows, living rooms and to principal outdoor areas by:

- *encouraging modulation of building bulk to facilitate sunlight penetration into the development site and adjacent properties; and*
- *maximising setbacks on the southern side of developments to encourage solar penetration into properties to the south.*

Comment:

The proposed development is suitably designed, with compliant side setbacks, height, floor space ratio, and open space. As such, the proposed development is demonstrated to be of acceptable bulk and scale, with a suitable building footprint.

Planning Principle consideration

The 'Access to sunlight' planning principle from the *Benevolent Society v Waverley Council* [2010] NSWLEC 1082 has been considered below. Relevant parts of the planning principle include:

- *The ease with which sunlight access can be protected is inversely proportional to the density of development. At low densities, there is a reasonable expectation that a dwelling and some of its open space will retain its existing sunlight. (However, even at low densities there are sites and buildings that are highly vulnerable to being overshadowed.) At higher densities sunlight is harder to protect and the claim to retain it is not as strong.*
- *The amount of sunlight lost should be taken into account, as well as the amount of sunlight retained.*
- *Overshadowing arising out of poor design is not acceptable, even if it satisfies numerical guidelines. The poor quality of a proposal's design may be demonstrated by a more sensitive design that achieves the same amenity without substantial additional cost, while reducing the impact on neighbours.*
- *For a window, door or glass wall to be assessed as being in sunlight, regard should be had not only to the proportion of the glazed area in sunlight but also to the size of the glazed area itself. Strict mathematical formulae are not always an appropriate measure of solar amenity. For larger glazed areas, adequate solar amenity in the built space behind may be achieved by the sun falling on comparatively modest portions of the glazed area.*
- *For private open space to be assessed as receiving adequate sunlight, regard should be had of the size of the open space and the amount of it receiving sunlight. Self-evidently, the smaller the open space, the greater the proportion of it requiring sunlight for it to have adequate solar amenity. A useable strip adjoining the living area in sunlight usually provides better solar amenity, depending on the size of the space. The amount of sunlight on private open space should ordinarily be measured at ground level but regard should be had to the size of the space as, in a smaller private open space, sunlight falling on seated residents may be adequate.*
-

Comment:

Given the constraints of the site (listed above) this is a case where "even at low densities there are sites and buildings that are highly vulnerable to being overshadowed". Even in mid-winter, direct sunlight still reaches the roof top terrace, the first floor balcony, and ground floor western courtyard, and wrap around courtyard for several hours between 9am and 3pm; and the kitchen windows for a small part of the day between 12noon and 3pm. Finally, the proposal is not a poor design and complies with the building height standard and the require built form controls.

Overall, the proposal, while not strictly complying with the requirements of the control, meets the criteria for a variation and meets the objectives of the control.

Having regards to the above assessment it is concluded that the proposed development is consistent with the relevant objectives of MDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported in this particular circumstance.

3.4.2 Privacy and Security

Specific privacy requirements and objectives, pursuant to Clause 3.4.2 Privacy and Security, are considered as follows:

Objective 1) To minimise loss of privacy to adjacent and nearby development by:

- *appropriate design for privacy (both acoustical and visual) including screening between closely spaced buildings; and*
- *mitigating direct viewing between windows and/or outdoor living areas of adjacent buildings.*

Comment:

On the southern elevation, the proposed development includes two windows to the ground floor (being a fixed low-rise window to the kitchen and a fixed window to the living room), and four windows to the first floor (being two fixed highlight windows servicing bedrooms, one frosted window servicing the bathroom, and one window to the leisure room). The ground floor windows do not present a privacy concern, as they are located well below fence level.

The first floor windows to the bedrooms are acceptable, as they are designed with a sill height of 1.6m above finished floor level, thereby minimising direct viewing. The bathroom window does not present a privacy concern as it is frosted. The remaining leisure room window provides access to light and air for the upper level, and is not directly aligned with any window or terrace on the adjacent site. However, due to the close location to the southern adjoining sites it is recommended that the sill height of this window also be increased to 1.6m above the finished floor level so as to not result in direct overlooking.

As a result, the proposal has been designed to ensure no unreasonable loss of privacy to adjacent and nearby development by the use of design responses including window size, use of opaque glass and window design (width, position and sill heights) to maintain reasonable privacy for the urban environment, including by the configuration of ground level spaces and landscaping.

Objective 2) To increase privacy without compromising access to light and air. To balance outlook and views from habitable rooms and private open space.

Comment:

The proposal has been designed with appropriate response to ensure no unreasonable impacts on privacy (both acoustical and visual) including the consideration of the floor plan elements (bathrooms, bedrooms, living area, fencing, landscaping and the like) so that direct viewing is limited or consistent

with the surrounding residential environment. Generally, the orientation of the dwelling is toward the east and westerly similar to the existing and surrounding dwellings outlook. The proposal does not create direct unreasonable viewing toward properties adjacent the site in Dudley Street.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

Landscaping, fencing and design elements have been incorporated to mitigate direct viewing between windows and/or outdoor living areas of adjacent buildings. Overall the proposal provides an appropriate level of privacy in the context of the surrounding density of the residential living environment without unreasonably compromising access to light and air. Bedrooms areas, being normally occupied less during the day and used for sleeping at night will not be unreasonably impacted.

In summary, the design of the proposed new dwelling provides a balanced street outlook and well located habitable rooms, including private open space with appropriate residential security consideration.

Having regard to the above assessment, and site inspection made to assess the privacy context in the local surroundings, it is concluded that the proposed development is consistent with the relevant objectives of MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

3.4.3 Maintenance of Views

Merit consideration

Two submissions were received from the following properties which included concerns regarding view loss:

- Unit 1/2 Dudley Street
- Unit 5/2 Dudley Street

The figure below shows the origin of the submissions (shaded in red) relative to the subject site (outlined in blue).



Figure 1: Shows the origin of the submissions (circled in red).

Specific view considerations and objectives, pursuant to *Clause 3.4.3 Maintenance of Views*, are addressed as follows:

In determining the extent of potential view loss to adjoining and nearby properties, the four (4) planning principles outlined within the Land and Environment Court Case of *Tenacity Consulting Pty Ltd Vs Warringah Council (2004) NSWLEC 140*, are applied to the proposal.

The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (for example of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, for example a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

Comment:

The views from Unit 1 and Unit 5 of 2 Dudley Street are of the subject site, other properties, and tree top vegetation. The affected views do not contain any water or iconic views.

The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

Comment:

Unit 1/2 Dudley Street

The views from Unit 1 of 2 Dudley Street are available from the ground floor living room and terrace, first floor bathroom, bedroom and balcony, and upper roof terrace towards the northern side boundary, from standing and seated positions.

The view from the roof terrace is not impacted by the proposed development, as it looks over the subject site at a height greater than the proposed development.



Photos 1 and 2 : The view from Unit 1 from a standing position looking north from the ground floor deck (left) and looking north-east from the first floor deck (right).

Unit 5/2 Dudley Street

The view from Unit 5 of 2 Dudley Street is available from the ground floor terrace, first floor bathroom and bedroom, and roof terrace towards the northern side boundary, from standing and seated positions.

The view from the roof terrace is not impacted by the proposed development, as it looks over the subject site at a height greater than the development.



Photo 3 and 4: The view from Unit 5 from a standing position looking north-west, from the ground floor deck (left) and first floor bedroom (right).

The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20 percent if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

Comment:

The affected views from Units 1 and 5 of 2 Dudley Street are available partially from high use rooms/areas, being living rooms and private open space decks. The remaining views from bedrooms or bathrooms which are considered lower in importance. However, the impact on these views is negligible, as the views are of the subject site itself, other properties, tree top vegetation that are not considered significant.

On balance, considering the whole of the view, alternative view lines, pattern of surrounding development, district outlooks and the existing roof profile of the proposed dwelling in comparison to the proposed new roof, the view loss is qualitatively considered to be **negligible**.

The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

Comment:

The proposed development is compliant with the applicable built form controls set by the MLEP 2013 and the MDCP 2013, with the exception of the control relating to setbacks of new windows. This non-compliance is acceptable for the reasons detailed in the section of this report relating to *Clause 4.1.4 Setbacks of the MDCP 2013*.

As such, the question of whether a more skilful design would provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours is considered. In this case, the only way to retain the views to the neighbours would be to retain the site in its current state. This does not demonstrate reasonableness in relation to the development potential of the site, particularly considering the view is not significant. The proposed development is acceptable in relation to view loss.

In summary, the overall view impact when considered in terms of the proposed building design approach, landscaping, height, setbacks, and floor to ceiling space is considered satisfactory and does not create an unreasonable view impact for any adjacent or surrounding properties.

The development is further considered against the Objectives of the DCP control as follows:

To provide for view sharing for both existing and proposed development and existing and future Manly residents.

Comment:

The proposal maintains view sharing with a reasonable design response that minimises impacts that are consistent with view sharing principles outlined above. The existing dwelling house will be demolished and the profile or outline of the new development including the house and garage does not create an unreasonable loss of view sharing.

To minimise disruption to views from adjacent and nearby development and views to and from public spaces including views to the city, harbour, ocean, bushland, open space and recognised landmarks or buildings from both private property and public places (including roads and footpaths).

Comment:

The development of the site will present as two storey to Dudley Street with with landscape space within the front and rear setback area. The density, height and distribution of landscaping is mindful of views and providing a balance to screen planting and privacy for the building required by the DCP. This is consistent with the visual impact of other semi detached dwellings in the vicinity of the site. Additionally, the setback from Dudley Street in consideration of the proposed building height, envelope and alignment of the building will not have an unreasonable impact on views from adjacent properties and the applicant has reduced selected elements (balcony, eaves) of the proposal to ensure minimal view interruption.

To minimise loss of views, including accumulated view loss 'view creep' whilst recognising development may take place in accordance with the other provisions of this Plan.

Comment:

The proposal is consistent with the objectives of the Manly DCP to ensure development may take place and the design responds appropriately to the site constraints and opportunities without creating unreasonable view amenity impacts for surrounding development that overlook the site. The demolition of the existing house has sought to maintain a consistent profile with the surrounding sites and maintain view sharing as demonstrated. On balance, in considering the whole of views available from various positions and relevant properties and view lines in particular over / through the site, the proposal is considered to be consistent with this objective.

Having regard to the above assessment, and site inspection made to assess the view context in the local surroundings, it is concluded that the proposed development is consistent with the relevant objectives of MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

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

Detail of non-compliance

The proposed development includes windows within 1.925m of the northern and southern side boundaries, where 3m is required.

Merit Assessment

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 proposal is consistent with maintaining local amenity by the design response to ensure no unreasonable impact on privacy (by windows, landscaping and the like) and providing equitable access to natural light, direct sunlight and air circulation for the proposed dwelling and the surrounding environment. In this regard, setbacks of 1.925m at ground level and at the upper level combined with design elements such as fenestration and changes in material reduce impacts of bulk and scale. The proposed side setbacks are consistent with the existing developments within the immediate vicinity, and introduces an improved landscape treatment to the front setback area. The site is considered to address the desired development pattern of Dudley street, the street edge (nature strip area) and the landscape character of the street.

As such, the proposed development maintained the existing desired spatial proportions of the street, the street edge and the landscape character of the street, despite the non-compliant side setback of the windows.

Objective 2) To ensure and enhance local amenity by:

- *providing privacy;*
- *providing equitable access to light, sunshine and air movement; and*
- *facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*
- *defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
- *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

Comment:

The proposal is consistent with maintaining local amenity by the design response to ensure no unreasonable impact on privacy (by windows, landscaping and the like) and providing equitable access to natural light, direct sunlight and air circulation for the proposed dwelling and the surrounding environment.

Two windows on the northern and southern elevation, adjoining the leisure rooms could lead to additional overlooking due to the proximity to the side setbacks and the sill height. As a result these two windows will be conditioned to have sill heights (minimum of 1.5m from the finished floor level) consistent with the remaining proposed windows on the first floor of the northern and southern elevations.

The sunlight access, privacy, maintenance of views and streetscape character impacts resulting from the proposed development are acceptable for the reasons detailed in the section of this report relating to Part 3 General Principles of Development of the MDCP 2013. The proposed development does not impact upon traffic conditions.

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

Comment:

The proposal is consistent with the DCP objective to allow for the flexibility in the siting of buildings while allowing for view sharing and maintaining adequate space between buildings including views and vistas from private and public spaces. The location of the proposal fronting Dudley Street is consistent

with surrounding dwellings. The garage entry will maintain safe and adequate traffic conditions, including visibility for car egress and pedestrians

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 side setbacks have been proposed to maintain natural features of landscaping including deep soil zones and appropriate planting subject to conditions. The proposed setbacks allow for compliance with the Building Code of Australia for maintenance, access, drainage work and emergency requirements (fire safety). The nature of development does not unduly detract from the context of the site and particularly in relation to road frontages and front and side setbacks including the context of neighbouring properties and the prevailing building lines in the immediate vicinity.

Consistency is maintained to the Dudley Street building line with neighbouring properties, including a minimum 6.0m front setback of the house. For Dudley Street, a two storey character is dominant with fronting garages a common element. Smaller elements of landscaping used to provide visual interest and amenity to the front/side setback areas and garage entry areas.

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

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

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

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2019.

A monetary contribution of \$8,437 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$843,707.

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 DA2020/0676 for Torrens title subdivision of 1 lot into 2 lots and construction of two semi detached dwellings on land at Lot 32 DP 5769, 4 Dudley Street, 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
Site Plan	Undated	Metricon
Ground Floor Plan Revision C	10 March 2020	Metricon
First Floor Plan Revision C	10 March 2020	Metricon
Elevations (West and North) Revision C	10 March 2020	Metricon
Elevations (East and South) Revision C	10 March 2020	Metricon
Section X-X Revision C	10 March 2020	Metricon

External Finishes Schedule	21 May 2020	Metricon
Plan Showing Proposed Subdivision	18 November 2019	Intrax

Engineering Plans		
Drawing No.	Dated	Prepared By
Erosion & Sediment Control Plan	Undated	Metricon
Stormwater Layout SH.1	22 May 2020	Ibrahim Stormwater Consultants
Stormwater Details SH.1	22 May 2020	Ibrahim Stormwater Consultants
Stormwater Details SH.2	22 May 2020	Ibrahim Stormwater Consultants

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate No. 1098679M_02	26 May 2020	Home Design Services
NatHERS Certificate No. 4801670	30 April 2020	Home Design Services
Stormwater Design Calculations	26 May 2020	Ibrahim Stormwater Consultants

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:

Landscape Plans		
Drawing No.	Dated	Prepared By
L-01 B DA Landscape Plan	Undated	Site Design Studios

Waste Management Plan		
Drawing No/Title.	Dated	Prepared By
Waste Management Plan	Undated	Applicant

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 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.

FEES / CHARGES / CONTRIBUTIONS

4. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$8,437.07 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 2019. The monetary contribution is based on a development cost of \$843,707.00.

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 2019 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.

5. **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

6. **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 by an appropriately qualified and practicing Civil Engineer demonstrating 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.

7. **Amendments to the approved plans**

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

- The windows on the first floor of the northern and southern elevation, servicing the leisure rooms, are to both have a minimum sill height of 1.5m above the finished floor level.

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.

8. **Boundary Identification Survey**

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

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

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

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

9. **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.

10. **External Finishes to Roof**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

11. **Protection of trees within Land owned and managed by Council**

Existing trees within Land owned and managed by Council (Balgowlah Golf Course in this case) shall be protected in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4, with no ground intrusion into the tree protection zone and no trunk, branch nor canopy disturbance.

Should any problems arise with regard to the existing trees on public land during the construction period, the applicant is to immediately Contact Council's Tree Services section and resolve the matter to Council's satisfaction.

Reason: tree protection and management.

12. **Pre-Construction Dilapidation Report**

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

- Unit 5/2 Dudley Street Balgowlah

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

13. **Public Liability Insurance - Works on Public Land**

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Northern Beaches Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land.

14. Installation and Maintenance of Sediment and Erosion Control

Prior to commencement of works on site, sediment and erosion controls must be installed along the immediate downslope of the works area, in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). The erosion controls shall be maintained in an operational condition until the development activities have been completed and the site fully stabilised. Sediment shall be removed from the sediment controls following each heavy or prolonged rainfall period.

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.

Such measures shall be installed along the rear common boundary to the Golf Course as well as the northern boundary to 6 Dudley Street along the rear section to ensure no sediment and erosion continues from the development site, through 6 Dudley Street, and onto the Golf Course.

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

15. Tree Removal Within the Property

This consent provides approval to remove Tree T5 within the frontage of the property identified in the Landscape Plan, where no design alternative is available.

Reason: To enable authorised building works.

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 an Arborist with minimum AQF Level 5 in arboriculture that determines that the tree presents an imminent risk to life or property.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

16. 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.

17. 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:

- Work Health and Safety Act;
- Work Health and Safety Regulation;
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)];
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998);

- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005; and
- 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.

18. **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.

19. **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.

20. **Property Boundary Levels**

The Applicant is to maintain the property boundary levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

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

Reason: To maintain the existing profile of the nature strip/road reserve.

21. **Vehicle Crossings**

The Applicant is to construct two vehicle crossings 3 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/1 N 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.

22. No Access through Land owned or managed by Council

Site access is not approved for delivery of materials nor construction of the development through adjacent Land owned or managed by Council.

Reason: public safety, landscape amenity and tree protection.

23. Protection of Councils's Public Assets

Any damage to Council's public assets shall be made good by the applicant and/or the contractor, to the satisfaction of Council.

The dumping or storage of building materials, spoil, vegetation, green waste, or any other material in Land owned or managed by Council is prohibited.

Council's public assets include, but is not limited to the following: road, kerb and gutters, crossovers, crossings, paths, grass verges, trees and bushland, open space, parkland, reserves, golf courses, and associated elements such as furniture, recreational facilities and the like, within the meaning of the Local Government Act 1993.

Reason: to protect and/or restore any damaged public asset.

24. 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 10% of any tree canopy, 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.

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

25. Landscape Completion

Landscaping is to be implemented in accordance with the approved Landscape Plan L-01, issue B, prepared by Site Design + Studios, inclusive of the following conditions:

- i) the nominated Tuckeroo (*Cupaniopsis anacardioides*) tree planting shall be deleted from the schedule and shall be replaced with two locally native trees as selected from Northern Beaches Council's Tree Guide, such as Coast Banksia, Cheese Tree, Magenta Cherry, Riberry, Weeping Lillypilly, and any others as listed in the Tree Guide,
- ii) all tree planting shall be installed at a minimum 75 litre container size.

Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

26. 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.

27. Post-Construction Dilapidation Report

Post-Construction Dilapidation Reports, including photos of any damage evident at the time of

inspection for Unit 5/2 Dudley Street Balgowlah, must be submitted after the completion of works. The report must:

- Compare the post-construction report with the pre-construction report,
- Clearly identify any recent damage and whether or not it is likely to be the result of the development works,
- Should any damage have occurred, suggested remediation methods.

Copies of the reports must be given to the property owners referred to in the Pre-Construction Dilapidation Report Condition. Copies must also be lodged with Council.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

Reason: To maintain proper records in relation to the proposed development.

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

28. Landscape Maintenance

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.

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.

Reason: To maintain local environmental amenity.

CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY STRATA SUBDIVISION OR SUBDIVISION CERTIFICATE

29. Services

The Applicant shall ensure all utilities/services and street lighting is installed. The Applicant is to submit a Certification stating the above requirement has been complied with by the relevant authority(s) and/or authorised contractor.

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

Reason: To ensure services have been provided in accordance with the relevant authorities requirements.

30. Release of Subdivision Certificate

The final plan of subdivision will not be issued by Council until the development has been completed in accordance with terms and conditions of the development consent.

Reason: Council's subdivision standards and the statutory requirements of the Conveyancing Act 1919.

31. Title Encumbrances

The Applicant shall ensure all easements, rights of carriageway, positive covenants and restrictions as to user as detailed on the plans and required by the development consent are to be created on the title naming Council as the sole authority empowered to release or modify.

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

Reason: To ensure proper management of land.

32. **Sydney Water Compliance Certification**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance. Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

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

33. **Subdivision Certificate Application**

Prior to the issue of the Subdivision Certificate, a completed Subdivision Certificate form, a final plan of subdivision prepared in accordance with the requirements of the Conveyancing Act 1919 are to be submitted to Council. Nine copies of the final plan of subdivision are to be submitted. All plans of survey are to show connections to at least two Survey Co-ordination Permanent Marks. The fee payable is to be in accordance with Council's fees and charges.

Reason: Statutory requirement of the Conveyancing Act 1919.

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

Signed



Catriona Shirley, Principal Planner

The application is determined on 09/11/2020, under the delegated authority of:



Rodney Piggott, Manager Development Assessments