

## REVIEW OF DETERMINATION ASSESSMENT REPORT

<b>Application Number:</b>	REV2019/0011
<b>Responsible Officer:</b>	Ashley Warnest
<b>Land to be developed (Address):</b>	Lot 202 DP 537569, 22 West Street BALGOWLAH NSW 2093
<b>Proposed Development:</b>	Review of Determination of Application DA2018/2034 for alterations and additions to a dwelling house
<b>Zoning:</b>	Manly LEP2013 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Kevin James Harris Beth May Laughton
<b>Applicant:</b>	Kevin James Harris
<b>Application lodged:</b>	08/03/2019
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Refer to Development Application
<b>Notified:</b>	14/03/2019 to 01/04/2019
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Recommendation:</b>	Approval
<b>Estimated Cost of Works:</b>	\$ 55,000.00

### 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

Environmental Planning and Assessment Act 1979 - Section 82A - Environmental Planning and Assessment Act 1979 - Section 8.3

Manly Development Control Plan - 3.4.2 Privacy and Security

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 202 DP 537569 , 22 West Street BALGOWLAH NSW 2093
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the eastern side of West Street, Balgowlah.</p> <p>The site is regular in shape with a frontage of 22.96m along West Street and depths of 23.47m to 26.86m. The site has a surveyed area of 569.1m<sup>2</sup>.</p> <p>The site is located within the R2 zone and accommodates a split level, brick dwelling house with an attached double garage.</p> <p>The site maintains an east/west orientation whilst enjoying a north-easterly outlook from the dwelling house. The site falls away from the frontage down to the rear portion of the site by approximately 9.2m, whereby a gradient of 46.3% is obtained.</p> <p><u>Detailed Description of Adjoining/Surrounding Development</u></p> <p>Adjoining and surrounding development is characterised by similar low-density dwelling houses.</p>

Map:



## SITE HISTORY

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

- Development Application DA2018/2034 - Alterations and additions to a dwelling house.  
Determined 11/02/2019

## PROPOSED DEVELOPMENT IN DETAIL

### ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

In accordance with Section 8.3 of the Act, an applicant may request Council to review a determination of a development application, other than for a complying development, integrated development, designated development or a determination made by Council in respect to an application by the Crown. The development application does not fall into any of these categories, therefore the applicant may request a review.

In accordance with Section 8.3 (2) of the Act, the request for the review must be made and determined within 6 months after the date of determination of the development application. The application was determined on 11/02/2019 and the notice of determination was issued on 11/02/2019. The review was lodged on 08/03/2019 and is to be determined by Council in June 2019, which will be within 6 months of the date of determination.

Section 8.3 (3) provides that the Council may review a determination if in the event that the applicant has made amendments to the development described in the original application, the consent authority is satisfied that the development, as amended, is substantially the same as the development described in the original application.

The amendments to the proposal are outlined in the 'Detailed Description of Works' section of this report.

A review of the original and amended plans has found that there are fundamental similarities between the original and the amended design (being subject of the 8.3 review) and the nature of the intended land use remains the same. Accordingly it is concluded that the amended scheme is substantially the same as the original proposal. Accordingly, it is considered that the proposal satisfies the requirement of Section 8.3 (3) of the Act

## **DETAILED DESCRIPTION OF WORKS**

The application seeks to delete condition 6 of development consent DA2018/2034 regarding visual privacy.

### **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 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 of the application Council received no submissions.

## **REFERRALS**

<b>External Referral Body</b>	<b>Comments</b>
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)**

Nil

### 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

### Manly Development Control Plan

#### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)	Yes	Yes
3.4.2 Privacy and Security	Yes	Yes

#### Detailed Assessment

#### 3.4.2 Privacy and Security

The review application seeks to remove the condition in relation to the provision of frosted ballasting. The condition was imposed to ensure the privacy and amenity of the residents of the adjoining property were not adversely impacted as a result of the development.

The 3.6m to the boundary and 7.9m from the edge of the proposed deck to the adjoining property is sufficient spatial separation from the dwelling and private open space of 24 West Street. The balcony is setback 3.5m back from the rear building line of 24 West Street. The balcony is suitably positioned to minimise overlooking without the need to incorporate frosted glazing to the balustrading.

The request to remove the condition of consent is considered reasonable as the proposal is consistent with the requirements of the clause.

### THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect 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

#### Manly Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

## 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 REV2019/0011 for Review of Determination of Application DA2018/2034 for alterations and additions to a dwelling house on land at Lot 202 DP 537569, 22 West Street, BALGOWLAH, subject to the conditions printed below:

### A. Delete Condition 6 - Visual Privacy

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

**Signed**



**Ashley Warnest, Planner**

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



**Steven Findlay, Manager Development Assessments**