

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2021/0391
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Responsible Officer:	Penny Wood
Land to be developed (Address):	Lot 1 SP 32567, 1 / 8 Willyama Avenue FAIRLIGHT NSW 2094 Lot 2 SP 32567, 2 / 8 Willyama Avenue FAIRLIGHT NSW 2094 Lot CP SP 32567, 8 Willyama Avenue FAIRLIGHT NSW 2094
Proposed Development:	Subdivision of an existing two (2) lot strata-titled dual occupancy development into two (2) new strata lots
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:	The Proprietors of Strata Plan 32567
Applicant:	Stewart Dixon

Application Lodged:	14/04/2021
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Subdivision only
Notified:	Not Notified
Advertised:	Not Advertised
Submissions Received:	0
Clause 4.6 Variation:	Nil
Recommendation:	Approval

Estimated Cost of Works:	\$ 310.00
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PROPOSED DEVELOPMENT IN DETAIL

The subject development application seeks consent to amend the existing strata subdivision of the subject site.

The site is already strata subdivided, however the existing strata plan for the site has become outdated as a result of works being undertaken in accordance with Development Consent nos. 2017/461204 (as modified by Section 4.55 Modification Application no. Mod2019/0045) and DA2019/0653; these consents approved substantial alterations and additions to a dual occupancy that have subsequently

altered its internal and external layouts. The existing lots are currently known as PT1 and PT2 of SP32567. The proposed strata subdivision will be known as PT3 and PT4 of SP32567 which will maintain two (2) lots on the site.

No demolition or building works are proposed to facilitate the proposed amendments to the strata plan; no physical changes will subsequently occur to the site as a result of this proposal.

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 - 4.1 Minimum subdivision lot size
Manly Development Control Plan - 4.4.8 Subdivision

SITE DESCRIPTION

Property Description:	<p>Lot 1 SP 32567 , 1 / 8 Willyama Avenue FAIRLIGHT NSW 2094</p> <p>Lot 2 SP 32567 , 2 / 8 Willyama Avenue FAIRLIGHT NSW 2094</p> <p>Lot CP SP 32567 , 8 Willyama Avenue FAIRLIGHT NSW 2094</p>
Detailed Site Description:	<p>The subject site is identified as 8 Willyama Avenue, Fairlight (Lot 23, SP 32567). The site is located on the northern side of Willyama Avenue. The site is a standard allotment with a single road frontage to the south; the side and rear boundaries all adjoin residential allotments.</p> <p>The site is a regularly-shaped allotment; the width of the site is 18.29 metres, with a depth of 34.665 metres. The area of the site is 633.4m² (survey) and is moderately sloped, with a front-to-rear fall of approximately 6 metres.</p>

The subject site and all surrounding sites are located within the R1 General Residential zone under MLEP 2013. The site is mapped as being affected by a landslip hazard (Area G2) and Class 5 Acid Sulphate Soils. The subject site is not identified as containing a mapped heritage item, however the front boundary adjoins a mapped local heritage item (Item no. 12 'All stone kerbs'); the site is also approximately 38 metres southeast of heritage item no. 157 (House, 'Unara' at 1 Hill Street Fairlight), however it is not within a heritage conservation area.

Development on the site consists of a part two/three storey dual occupancy, with associated garages, an inground swimming pool and retaining walls; such development was recently approved by Development Consent nos. 10.2017.154.1 (as modified) and DA2019/0653.

Detailed Description of Adjoining/Surrounding Development

Development within the surrounding area consists predominately of residential development of varying densities and sizes (i.e. dwelling houses (both attached and detached), dual occupancies and residential flat buildings) and associated development (e.g. sheds and swimming pools).

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:

- 24 November 1997: Building Application no. 367/97 approved for a carport extension, deck and awning.
- 14 November 2017: Development Application no. 2017/461204 approved for alterations and additions to an existing dual occupancy.
- 8 April 2019: Section 4.55 Modification Application no. Mod2019/0045 approved to modify Development Application no. 2017/461204 (see above).
- 23 July 2019: Development Application no. DA2019/0653 approved for the construction of a swimming pool and alterations and additions to a dwelling within an existing dual occupancy development.
- 14 April 2021: Subject development application lodged.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	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 does not include any works, and is therefore not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Mainly 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)	<p><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>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.</p> <p><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to the area allocated as common property. Revised plans were received on 25 May 2021 indicating the location of the lift (common property) at first floor.</p>

Section 4.15 Matters for Consideration'	Comments
	<p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This clause is not relevant to this application, as no building works are proposed.</p> <p><u>Clause 143A</u> 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.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(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.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
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 was not notified.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	No objections subject to conditions.

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

Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Minimum subdivision lot size:	250m ²	Not applicable; the clause does not apply to strata subdivisions pursuant to cl. 4.1(4)(a).	N/A	N/A
Height of Buildings:	N/A	No change.	N/A	N/A
Floor Space Ratio	N/A	No change.	N/A	N/A

Compliance Assessment

Clause	Compliance with Requirements
2.6 Subdivision—consent requirements	Yes
4.1 Minimum subdivision lot size	N/A
4.3 Height of buildings	N/A
4.4 Floor space ratio	N/A
4.5 Calculation of floor space ratio and site area	N/A
4.6 Exceptions to development standards	N/A
6.1 Acid sulfate soils	N/A
6.2 Earthworks	N/A
6.4 Stormwater management	N/A
6.8 Landslide risk	N/A
6.9 Foreshore scenic protection area	N/A
6.10 Limited development on foreshore area	N/A
6.12 Essential services	Yes

Detailed Assessment

4.1 Minimum subdivision lot size

The clause is not applicable pursuant to clause 4.1(4)(a) of the LEP.

Manly Development Control Plan

Built Form Controls

Manly Development Control Plan applies to the site. As the application is for strata subdivision only and no works are proposed, the numerical controls of the DCP are not applicable to this application.

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
4.4.8 Subdivision	N/A	N/A

Detailed Assessment

4.4.8 Subdivision

The proposal will have no impact on the general subdivision layout and orientation of lots on the site.

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

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of 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 DA2021/0391 for Subdivision of an existing two (2) lot strata-titled dual occupancy development into two (2) new strata lots on land at Lot 1 SP 32567, 1 / 8 Willyama Avenue, FAIRLIGHT, Lot 2 SP 32567, 2 / 8 Willyama Avenue, FAIRLIGHT, Lot CP SP 32567, 8 Willyama Avenue, FAIRLIGHT, 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
Location Plan - Sheet 1 of 2	12 October 2020	Stewart John Dixon
Floor Plan - Sheet 2 of 2	12 October 2020	Stewart John Dixon

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

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

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

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

2. **Compliance with Relevant Legislation**

Prior to the issue of the Strata Plan of Subdivision (including any Stratum), all relevant matters pertaining to this Plan, are to be satisfied to the satisfaction of the Certifying Authority, and evidence provided that the Plan complies with clause 17 Strata Schemes Development Regulation 2016 and the relevant parts of Section 58 Strata Schemes Development Act 2015.

Reason: To ensure compliance with the Consent issued, compliance with relevant legislation, and to ensure adequate provision is made, where required for fire safety, occupant safety, egress, access and appropriate facilities in the premises for building occupants.

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

Signed



Penny Wood, Planner

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



Steven Findlay, Manager Development Assessments