

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|   |  |
|---|--|
| <b>Application Number:</b>                | DA2020/1196  |
| <b>Responsible Officer:</b>               | Clare Costanzo   |
| <b>Land to be developed (Address):</b>    | Lot 13 DP 2610, 19 Adelaide Street BALGOWLAH HEIGHTS NSW 2093              |
| <b>Proposed Development:</b>              | Alterations and additions to a dwelling house including secondary dwelling |
| <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>                             | Kin Cheung Pak   |
| <b>Applicant:</b>                         | Mga Architects Pty Limited   |
| <b>Application Lodged:</b>                | 26/10/2020   |
| <b>Integrated Development:</b>            | No   |
| <b>Designated Development:</b>            | No   |
| <b>State Reporting Category:</b>          | Residential - Alterations and additions                                    |
| <b>Notified:</b>                          | 08/12/2020 to 13/01/2021   |
| <b>Advertised:</b>                        | Not Advertised   |
| <b>Submissions Received:</b>              | 5  |
| <b>Clause 4.6 Variation:</b>              | Nil  |
| <b>Recommendation:</b>                    | Approval   |
| <b>Estimated Cost of Works:</b>           | \$ 24,860.00   |

### PROPOSED DEVELOPMENT IN DETAIL

The proposal comprises of the use of a portion of level 2 as a secondary dwelling and some physical works. The proposed works are all internal and provide for minor changes to:

- reconfigure some internal walls on level 2 to provide for bathroom, bedroom, kitchen/dining and living area
- new window along the western elevation of level 2
- block 3 doorways with internal walls on level 2
- new stairway for access to principal dwelling
- block off access to stairway from level 3 and storage below house

## 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 - Zone R2 Low Density Residential

Manly Development Control Plan - 3.4.2 Privacy and Security

Manly Development Control Plan - 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)

## SITE DESCRIPTION

|                                   |   |
|-----------------------------------|---|
| <b>Property Description:</b>      | Lot 13 DP 2610 , 19 Adelaide Street BALGOWLAH HEIGHTS NSW 2093  |
| <b>Detailed Site Description:</b> | <p>The subject site consists of one (1) allotment located on the southern side of Adelaide Street, Balgowlah Heights.</p> <p>The site is regular in shape with a frontage of 12.2m along Adelaide Street and a depth of 42.7m. The site has a surveyed area of 520.23m<sup>2</sup>.</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a multi storey brick residence with a tile roof. Vehicular access to an attached garage is available via a concrete driveway from Adelaide Street. Pedestrian access is currently available to the dwelling from Adelaide Street via an elevated concrete path.</p> <p>The site has a fall of approximately 4 metres from the northern frontage to the southern rear.</p> <p>The existing landscape character of the site is a typical</p> |

suburban garden with small and medium size shrubs, boundary planting and lawn areas.

#### Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by similar one and two storey residential dwellings.

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:

- CDC2020/0907 for internal alterations to the existing dwelling was granted on the 18 November 2020. Works have since commenced.
- DA2020/1598 for alterations and additions to a dwelling house was approved by Council on 27 January 2020.

#### 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 Matters for Consideration'   | Comments  |
|---|---|
| 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)(iia) – 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&amp;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&amp;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&amp;A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;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&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;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 Matters for Consideration'  | Comments   |
|--|--|
| 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) <b>Environmental Impact</b><br/>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) <b>Social Impact</b><br/>The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b><br/>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 has been publicly exhibited from 08/12/2020 to 13/01/2021 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:  |
|--------------------------|---|
| Withheld                 | BALGOWLAH HEIGHTS NSW 2093  |
| Mr Brendan Matthew Paul  | 14 Adelaide Street BALGOWLAH HEIGHTS NSW 2093                           |
| Mr Gregory Anthony Jones | C/- Ducker Constructions Pty Ltd 119/3 Mallard Lane WARRIEWOOD NSW 2102 |
| Mr Simon David Wake      | 19 A Adelaide Street BALGOWLAH HEIGHTS NSW 2093                         |
| Withheld                 | BALGOWLAH HEIGHTS NSW 2093  |

The following issues were raised in the submissions and each have been addressed below:



- Dwelling Density
- Traffic and Parking
- Noise
- Privacy
- Character of the Streetscape
- Additional Works

The matters raised within the submissions are addressed as follows:

- *The Statement of Environmental effects states that the "The proposal does not alter the existing dwellings ability to satisfy the R2 Low Density Residential zone objectives". However thus seems to rest on the dwelling is being introduced to a built form that is beyond councils current limit for height and floor space ratios. Introducing a secondary dwelling within this form then creates a density precedent that is not consistent with the current dwellings on Adelaide Street. Adelaide Street is a narrow quiet cul-de-sac and not well placed to cope with the additional noise and parking pressures of a secondary dwellings. No additional parking has been created to cope with vehicles associated with the secondary dwelling and Adelaide St is already at capacity during school drop off and pick up times for Balgowlah Heights Public School.*
- *The introduction of a secondary dwelling on a single site is not consistent with the current residences on Adelaide Street and creates a density precedent for the street without the appropriate infrastructure support. We feel that an additional dwelling creates additional noise and places additional strain on parking in Adelaide Street. No provision has been made for sufficient parking to support the additional dwelling on a street that is already congested especially during school drop off and collection times.*

Comment:

Attached secondary dwellings are permitted with consent within the R2 Low Density Residential Zone. There are no external works to the site that would increase height, floor area or change the built form as previously approved. The secondary dwelling is proposed within the existing second storey of previously approved dwelling that is compliant with the relevant residential density and dwelling size controls.

Residential density and dwelling size controls do not apply to secondary dwellings which are subject to their own development standard for minimum floor area clause 5.4 (9). It should be noted there are no proposed changes to the floor area, residential density or dwelling size as a result of the proposal. All works are within the footprint of existing approved dwelling.

The secondary dwelling is not expected to place an unreasonable demand on street parking. A site visit was conducted on the 16th of December 2020 and ample street parking was available. It should also be noted work and construction vehicles were parked on Adelaide Street at the time and street parking was readily available.

- *This is a quiet dead-end street with several young families and limited parking, the street is quite narrow. We are concerned that the likelihood of more cars in the street will create greater congestion and increased safety risks for the many young children in the street. We are also concerned, as direct neighbours in close proximity to the property, that this proposed dense housing will lead to greater noise and impact our privacy. This development, if approved, also creates a precedent for the conversion of residential houses in the street and will be detrimental to the character of the street. The proposed entryway for the dual apartments includes the*

*building of a ramp to the top floor, therefore we would like to raise concerns about the impact of this on the streetscape. Adelaide Street is currently made up of single dwelling residential houses only.*

Comment:

The proposal comprises of a secondary dwelling within an existing dwelling and therefore no changes to the built form of the dwelling form part of this application. The proposal comprises of a new window on the western elevation of the second storey to provide for solar access to the secondary dwelling. Remaining windows will remain unchanged. It is not expected the secondary dwelling will have an unreasonable impact on acoustic and visual privacy as existing site conditions remain mostly unchanged.

The entry ramp is only required to meet BCA requirements if the dwelling is classified as Class 2. If a ramp is required to meet BCA requirements in the future it will be dealt with via a separate application. A condition has been recommended requiring the removal of the entry ramp from this development application.

A secondary dwelling on site does not change the approved use of the site as a single dwelling house.

- *Multiple dwellings increase pressure for car parking, already at a premium on the what is a narrow residential street, part of which is too steep and windy for on-street car parking. In addition the street's proximity to Balgowlah Heights Public Primary school, which has lead recently changed parking restrictions in the street, amplifies this issue.*
- *A single-family home turned into two dwellings increases the number of people likely residing at the address, increasing the noise footprint, in what is a young family residential street.*
- *A single-family home converted into a multi-dwelling housing would be a first for the street. And we are concerned with recent developer activity in the street (we'd site the activity at 11 Adelaide Street in recent months for instance), where it appears a developer has bought the plot/house there when it came up for sale, subsequently knocked down the existing single-family dwelling with the aim to rebuild into multi-dwelling housing. Developers have no plans to build a family home and be part of the community of the street, only to maximise the financial value of their investment, regardless of the impact to the existing community on the street. This type of activity impacts the street, through extra noise, car parking and other negative factors and the ability of those families to enjoy simple family and community life that currently exists on the street. Allowing a multi-dwelling development proposal such as this could act as "precedent" and open the floodgates to other financially motivated multi-dwelling developments at the expense of the community of the street. Our view is that streets, like Adelaide Street, with single family homes in residential suburbs far from dense transport links and other amenity shouldn't be converted into multi-dwelling housing, as this changes the community aspect of the street.*
- *Converting a single-family dwelling into multi-dwelling housing, particularly to include a dwelling of the size proposed (one bedroom apartment) increases the risk of that these dwellings get used for short-term lettings, with all the car-parking, noise, anti-social behaviour risk, that Short term lettings have been observed to bring to other communities. We note the owner is an absentee landlord, does not live in the property and is not part of the street community. The property has been rented out to a family in the past, its gardens are overgrown, and the previous tenants eventually left for reasons including insufficient maintenance upkeep of the house. This suggests to us that the owner may be financially motivated in their decision making. The risk of allowing a multi-dwelling development to proceed aligns this motivation with the downside from the "Airbnb" style short term rental market risk is a bad outcome in a street jam-packed with young families.*
- *We not that work has been underway at the address for some time, pre dating the dates of your letters, including some recent excavation activities, which is also a concern to us.*

Comment:

The proposed secondary dwelling is not expected to place any unreasonable demand on street car parking. See above discussion.

The site will continue to retain its approved use as a single dwelling. The application is not seeking a multi dwelling house. The attached secondary dwelling is permitted with consent within the R2 Low Density Residential zone.

CDC2020/0907 for internal alterations to the existing dwelling, replace existing kitchen wall on level 3 and new walls on level 2 were approved on the 18 November 2020. Any works being done to the property prior to the notification of this development application were subject to the complying development certificate and therefore do not require Council approval.

## REFERRALS

| Internal Referral Body                             | Comments   |
|--|--|
| Building Assessment - Fire and Disability upgrades | <p><b><i>The BCA Assessment Report prepared by BCP and dated 1.12.2020 has been reviewed by the applicant as requested by Council. The response from BCP dated 15/2/2021 has been considered and a change to the wording of the condition has been applied. Otherwise the statement below still applies.</i></b></p> <p>The application has been investigated with respects to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p> |
| Landscape Officer                                  | <p>The proposal is for the alterations to an existing dwelling to create a secondary dwelling.</p> <p>The Landscape Referral is assessed against the Manly Local Environment Plan, and against the following landscape controls of Manly DCP 2013:</p> <ul style="list-style-type: none"> <li>• section 3: General Principles of Development.</li> <li>• section 4: Development Controls and Development Types.</li> </ul> <p>The existing landscape character of the site is a typical suburban garden with gardens and boundary planting, and lawn. No existing trees nor vegetation are proposed for removal, nor are impacted by the development.</p> <p>Landscape Referral raise no objection to the development proposal,</p>  |



| Internal Referral Body | Comments                          |
|------------------------|-----------------------------------|
|                        | subject to conditions of consent. |

## 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. A388483 (Unit 1) and A388485 \_02(Unit 2) dated 3 September 2020 and 25 February 2021 respectively).

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

### 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        | no changes | -           | N/A      |
|                      |             |            |             |          |

|                   |            |            |   |     |
|-------------------|------------|------------|---|-----|
| Floor Space Ratio | FSR: 0.4:1 | no changes | - | N/A |
|-------------------|------------|------------|---|-----|

#### Compliance Assessment

| Clause   | Compliance with Requirements |
|--|------------------------------|
| 5.4 Controls relating to miscellaneous permissible uses  | Yes                          |
| 5.8 Conversion of fire alarms  | Yes                          |
| 6.8 Landslide risk   | Yes                          |
| 6.9 Foreshore scenic protection area   | Yes                          |
| 6.12 Essential services  | Yes                          |
| 6.22 Development for the purposes of secondary dwellings in certain residential and environment protection zones | Yes                          |

#### Detailed Assessment

#### **Zone R2 Low Density Residential**

| Land use definition: MLEP 2013 | Permitted or Prohibited |
|--------------------------------|-------------------------|
| Attached dwelling house        | Permitted with consent  |

The underlying objectives of the R2 Low Density Residential zone:

- To provide for the housing needs of the community within a low density residential environment.*

#### Comment:

The proposal will provide for additional housing within a low density residential environment.

It is considered that the development satisfies this objective.

- To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

#### Comment:

The site will continue to provide for the day to day needs of the residents.

It is considered that the development satisfies this objective.

#### **Manly Development Control Plan**

#### Built Form Controls

| Built Form Controls - Site Area: 520.2m <sup>2</sup> | Requirement         | Proposed                    | % Variation* | Complies |
|--|---------------------|-----------------------------|--------------|----------|
| 4.1.1.1 Residential Density and Dwelling Size        | Density: 1 dwelling | 1 principle and 1 secondary | -            | Yes      |

|   |  |  |      |     |
|---|--|--|------|-----|
|   |  | dwelling   |      |     |
| 4.1.5.3 Private Open Space  | 18sqm / 12sqm per dwelling                 | no changes   | N/A  | Yes |
| 4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas | Maximum 50% of frontage up to maximum 6.2m | no changes   | -    | Yes |
| Schedule 3 Parking and Access   | Dwelling 2 spaces                          | 2 spaces (principle dwelling)<br>0 spaces (secondary dwelling) | 100% | No  |

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

#### Compliance Assessment

| Clause   | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| 3.1 Streetscapes and Townscapes  | Yes                          | Yes                         |
| 3.1.1 Streetscape (Residential areas)  | Yes                          | Yes                         |
| 3.3.1 Landscaping Design   | Yes                          | Yes                         |
| 3.3.2 Preservation of Trees or Bushland Vegetation   | Yes                          | Yes                         |
| 3.4 Amenity (Views, Overshadowing, Overlooking /Privacy, Noise)  | Yes                          | Yes                         |
| 3.4.1 Sunlight Access and Overshadowing  | Yes                          | Yes                         |
| 3.4.2 Privacy and Security   | Yes                          | Yes                         |
| 3.4.4 Other Nuisance (Odour, Fumes etc.)   | Yes                          | Yes                         |
| 3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design) | Yes                          | Yes                         |
| 3.5.3 Ventilation  | Yes                          | Yes                         |
| 3.5.4 Energy Efficient Appliances and Demand Reduction and Efficient Lighting (non-residential buildings)  | Yes                          | Yes                         |
| 3.5.5 Landscaping  | Yes                          | Yes                         |
| 3.6 Accessibility  | Yes                          | Yes                         |
| 3.7 Stormwater Management  | Yes                          | Yes                         |
| 3.8 Waste Management   | Yes                          | Yes                         |
| 3.9 Mechanical Plant Equipment   | 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                         |
| 4.1.5 Open Space and Landscaping   | Yes                          | Yes                         |
| 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)                                 | No                           | No                          |

| Clause                                 | Compliance with Requirements | Consistency Aims/Objectives |
|--|------------------------------|-----------------------------|
| 4.1.8 Development on Sloping Sites     | Yes                          | Yes                         |
| 4.4.1 Demolition                       | Yes                          | Yes                         |
| 4.4.2 Alterations and Additions        | Yes                          | Yes                         |
| 5 Special Character Areas and Sites    | Yes                          | Yes                         |
| 5.4.1 Foreshore Scenic Protection Area | Yes                          | Yes                         |
| Schedule 1 – Maps accompanying the DCP | Yes                          | Yes                         |

### Detailed Assessment

#### **3.4.2 Privacy and Security**

The existing dwelling remains mostly unchanged. The proposal comprises of one additional window along the western elevation to provide for solar access for the secondary dwelling. It is not expected the window will have an unreasonable impact on the privacy enjoyed by adjoining dwellings.

Casual surveillance will continue to be available from the principal dwelling towards Adelaide Street.

#### **4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)**

##### Description of non-compliance

The proposal provides for 2 car parking space for the principle dwelling and 0 car parking space for the secondary dwelling. The proposal comprises of a shortfall of 2 car parking spaces as a result of the application.

##### Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

*Objective 1) To provide accessible and adequate parking on site relative to the type of development and the locality for all users (residents, visitors or employees).*

##### Comment:

There will be 2 car parking spaces on site to provide for adequate parking for the occupants of the principle dwelling. The attached secondary dwelling is a modest one bedroom and is not expected to place an unreasonable demand on street parking.

*Objective 2) To reduce the demand for on-street parking and identify where exceptions to onsite parking requirements may be considered in certain circumstances.*

##### Comment:

The site provides for 2 car parking spaces for the residents. The secondary dwelling comprises of one bedroom and is not expected to place an unreasonable level of demand on street parking.

*Objective 3) To ensure that the location and design of driveways, parking spaces and other vehicular access areas are efficient, safe, convenient and are integrated into the design of the development to minimise their visual impact in the streetscape.*

Comment:

The existing driveway and access arrangements to the site will be maintained.

*Objective 4) To ensure that the layout of parking spaces limits the amount of site excavation in order to avoid site instability and the interruption to ground water flows.*

Comment:

No physical works are proposed.

*Objective 5) To ensure the width and number of footpath crossings is minimised.*

Comment:

No physical works are proposed. Existing singular vehicular crossing will be retained.

*Objective 6) To integrate access, parking and landscaping; to limit the amount of impervious surfaces and to provide screening of internal accesses from public view as far as practicable through appropriate landscape treatment.*

Comment:

No physical works proposed. Existing hedging and small to medium shrubs on site to be retained.

*Objective 7) To encourage the use of public transport by limiting onsite parking provision in Centres that are well serviced by public transport and by encouraging bicycle use to limit traffic congestion and promote clean air.*

Comment:

The site provides for adequate car parking to meet the day to day needs of the residents.

Having regard to the above assessment, 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.

## **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**

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 DA2020/1196 for Alterations and additions to a dwelling house including secondary dwelling on land at Lot 13 DP 2610, 19 Adelaide Street, BALGOWLAH HEIGHTS, subject to the conditions printed below:

## **DEVELOPMENT CONSENT OPERATIONAL CONDITIONS**

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

| <b>Architectural Plans - Endorsed with Council's stamp</b>     |              |                    |
|--|--------------|--------------------|
| <b>Drawing No.</b>   | <b>Dated</b> | <b>Prepared By</b> |
| DA-000 Proposed and existing roof plan RevA                    | 21/01/2021   | MGA Architects     |
| DA-100 Proposed Level 3 Floor Plan RevA                        | 21/01/2021   | MGA Architects     |
| DA-101 Proposed Level 2 Floor Plan RevA                        | 21/01/2021   | MGA Architects     |
| DA-102 Proposed Level 1 Floor Plan RevA                        | 21/01/2021   | MGA Architects     |
| DA-200 Existing Level 1,2 & 3 Level Plans RevA                 | 21/01/2021   | MGA Architects     |
| DA-300 Proposed & Existing East Elevation & Section AA RevA    | 21/01/2021   | MGA Architects     |
| DA-301 Proposed & Existing North, West & South Elevations RevA | 21/01/2021   | MGA Architects     |

| <b>Reports / Documentation – All recommendations and requirements contained within:</b> |            |                              |
|---|------------|------------------------------|
| BASIX Certificate No. A388483   | 03/09/2020 | Brian Teplicanec Consultancy |
| BASIX Certificate No. A388485_02  | 25/02/2021 | Brian Teplicanec Consultancy |
| Building Code of Australia Assessment Report  | 1/12/2020  | Building Code Professionals  |
| Geotechnical Stability Assessment   | 31/08/2020 | JK Geotechnics               |

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:

| <b>Waste Management Plan</b> |              |                    |
|------------------------------|--------------|--------------------|
| <b>Drawing No/Title.</b>     | <b>Dated</b> | <b>Prepared By</b> |
| Waste Management Plan        | 23/09./2020  | -                  |

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 2018
  - (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. Security Bond**

A bond (determined from cost of works) of \$1,000 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](http://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**

### **5. Amendments to the approved plans**

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

- The proposed handrail and ramp providing access to the principal dwelling are to be removed.
- The proposed metal fencing and gates separating private open space for the primary and secondary dwelling in the rear of the site is not supported and is to be removed.

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.

### **6. 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.

## 7. **Change of Building Class/Building Upgrade**

The existing building is proposed to be converted to a secondary dwelling which will result in a change of classification to a Class 2 building and will be required to be upgraded to comply with Parts C, D, E & F (specifically sound transmission ratings) of the Building Code of Australia. In this regard the BCA Assessment Report prepared by Building Code Professionals Pty Ltd, dated 15/9/2020 is to be taken into consideration in the assessment of the Construction Certificate, **but with particular emphasis on checking the rise in storeys and consequent type of construction.**

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

Reason: To ensure adequate provision is made for fire safety and for building occupant safety

## **CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

### 8. **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

### 9. Fire Safety Matters

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

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

**Signed**



**Clare Costanzo, Planner**

The application is determined on 04/03/2021, under the delegated authority of:



**Anna Williams, Manager Development Assessments**