

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/0543
Responsible Officer:	Benjamin Price
Land to be developed (Address):	Lot 9 DP 4449, 16 Baltic Street FAIRLIGHT NSW 2094
Proposed Development:	Use of part of the building as a secondary dwelling
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:	Vivan Rounsley Kevin John Rounsley Ida Korlevic
Applicant:	Kevin John Rounsley
Application lodged:	09/04/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Other
Notified:	12/04/2018 to 30/04/2018
Advertised:	Not Advertised
Submissions Received:	1
Recommendation:	Approval
Estimated Cost of Works:	\$ 0.00

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

Manly Development Control Plan - 3.4.2 Privacy and Security

Manly Development Control Plan - 4.1.1 Dwelling Density, Dwelling Size and Subdivision

Manly Development Control Plan - 4.1.5 Open Space and Landscaping

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

SITE DESCRIPTION

Property Description:	Lot 9 DP 4449 , 16 Baltic Street FAIRLIGHT NSW 2094
Detailed Site Description:	The subject property is commonly known as 16 Baltic Street, Fairlight and legally known as Lot 9 Section C in DP 4449. The site is located on the northern side of Baltic Street. The property is rectangular in shape and has a frontage of 9.145m to Baltic Street, an average depth of 36.575m and an overall site area of 334.4m². The property currently contains a 1 and 2 storey dwelling with vehicular access via an existing driveway from Baltic Street to an existing carport to the front of the existing dwelling. The property slopes from south to north and includes a crossfall of 6.3m. The surrounding area predominantly consists of residential accommodation including residential flat buildings, semi-detached dwellings and one and two storey dwelling houses.

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:

DA127/2017 - 16 Baltic Street Fairlight - Alterations and additions to the existing dwelling house. Approved on the 4 September 2017. A submission for this application raised an issue with the illegal use of the lower ground floor as a secondary dwelling. This submission was referred to Council's compliance department for investigation. On the 17 January 2018 Council issued a notice of intention to give an order under Section 121B of the EP&A Act 1979.

PROPOSED DEVELOPMENT IN DETAIL

The proposal is for the use of the existing lower ground floor as a secondary dwelling. No building works have been included in this application.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment C.

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	None applicable.

Section 4.15 Matters for Consideration'	Comments
draft environmental planning instrument	
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)(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)	<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, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested. <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. <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 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 insurance requirements under the Home Building Act 1989. This clause is not relevant to this application. <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. <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.
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built	(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under

Section 4.15 Matters for Consideration'	Comments
environment and social and economic impacts in the locality	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.

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 process council is in receipt of 1 submission/s from:

Name:	Address:
Withheld Withheld	FAIRLIGHT NSW 2094

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

- Precedent for land size
- Could be rented out after approval
- Insufficient off-street parking
- Insufficient on-street parking to accommodate additional dwelling
- Amenity

The matters raised within the submissions are addressed as follows:

- Precedent for land size
Comment:

The proposal is entirely within the existing dwelling and will achieve adequate internal amenity for the occupant and will not result in any unreasonable impacts within the locality. Any further applications within the street for secondary dwellings will be assessed on a merit basis.

- Could be rented out after approval

Comment:

This application has been assessed on this basis and was found to be satisfactory.

- Insufficient off-street parking and insufficient on-street parking to accommodate additional dwelling

Comment:

The proposal is within close proximity to public transport with good links to services and employment opportunities. The provision of no parking for this dwelling will not result in any unreasonable impacts on parking within the locality.

- Amenity

Comment:

The proposal has been assessed below and was found to achieve an adequate level of amenity within the locality.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire and Disability upgrades	The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development. <i><u>Note:</u> The proposed development may not comply with some requirements of the BCA. Issues such as these however may be determined at Construction Certificate stage.</i>

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 (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

Division 2: Secondary dwellings

Clause 19: Definition

Development for the purposes of a secondary dwelling includes the following:

- (a) the erection of, or alterations or additions to, a secondary dwelling,
- (b) alterations or additions to a principal dwelling for the purposes of a secondary dwelling.

Note: The standard instrument defines secondary dwelling as follows:

"secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the principal dwelling), and
- (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling."

Comment:

The proposed use is defined under MLEP 2013 as a secondary dwelling defined as follows:
"secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the principal dwelling), and
- (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and
- (c) is located within, or is attached to, or is separate from, the principal dwelling."

Clause 20: Land to which this Division applies:

Requirement	Comment
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones, but <i>only if</i> development for the purposes of a dwelling house is permissible on the land:	
(a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone R5 Large Lot Residential.	Consistent. The site is located within the R1 General Residential Zone and, as such, the proposed use is permissible with consent under WLEP 2011.

Clause 21: Development to which this Division applies

Requirement	Comment
This Division applies to development, on land to which this Division applies, for the purposes of a secondary dwelling.	Consistent. The development involves the use of the lower ground floor as a secondary dwelling, as defined by the Standard Instrument. The SEPP ARH defines development for the purposes of a secondary dwelling as the following: <i>Development for the purposes of a secondary dwelling includes the following:</i> (a) <i>the erection of, or alterations or additions to, a secondary dwelling,</i> (b) <i>alterations or additions to a principal dwelling for the purposes of a secondary dwelling.</i> The use of the word "<i>includes</i>" by the SEPP ARH does not specifically exclude other development from the function of this SEPP, but provides further information to the development to which it applies. Section 1.5 of the EP&A Act 1979 defines development as the following: <i>"(1) For the purposes of this Act, development is any of the following:</i> (a) <i>the use of land,</i> (b) <i>the subdivision of land,</i> (c) <i>the erection of a building,</i> (d) <i>the carrying out of a work,</i> (e) <i>the demolition of a building or work,</i> (f) <i>any other act, matter or thing that may be controlled by an environmental planning instrument."</i> Therefore, as the proposal meets the definition of development this Division applies.

Clause 22: Development may be carried out with consent

Development to which this Division applies may be carried out with consent.

Requirement	Comment
(2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling.	The proposal will result in a principal dwelling and a secondary dwelling.
(3) A consent authority must not consent to development to which this Division applies unless:	The prescribed floor space ratio for the site is 0.6:1. The existing dwelling house on the site has an approved floor space ratio of 0.63:1 in accordance with clause 4.6 of the Manly LEP
(a) the total floor area of the principal dwelling and	

the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and (b) the total floor area of the secondary dwelling is no more than 60m² or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.	2013. The proposal is within the existing building and will not result in a further increase to the floor space ratio. As such the proposal is within the floor space ratio allowed on the site by Clause 4.6 of the Manly LEP 2013. The Manly LEP 2013 allows for the greater floor area of the following • a maximum floor area of 60sqm • 30% of the total floor area of the principal dwelling The proposed secondary dwelling is 49sqm and is therefore consistent with the Manly LEP 2013
(4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds: (a) site area if: (i) the secondary dwelling is located within, or is attached to, the principal dwelling, or (ii) the site area is at least 450 square metres. (b) parking if no additional parking is to be provided on the site.	The site area is 334.4sqm. The secondary dwelling is located within the principal dwelling and will not add to the bulk or scale of the building nor will it be visible from the street. The proposal will add to the variety and number of dwellings within the locality while ensuring no unreasonable impacts to the locality. The proposal is consistent with the objectives of the R1 General Residential zone. No additional parking is proposed.

Note: A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (4).

Clause 24: No subdivision

Requirement	Comment
A consent authority must not consent to a development application that would result in any subdivision of a lot on which development for the purposes of a secondary dwelling has been carried out under this Division.	Consistent. This application does not propose any subdivision of the existing allotment.

Conclusion

The proposal is consistent with the provisions of Part 2 Division 2 Secondary Dwellings of the SEPP ARH.

SEPP (Building Sustainability Index: BASIX) 2004

The Environmental Planning and Assessment Regulation 2000 defines BASIX affected development as the following:

"(a) development that involves the erection (but not the relocation) of a BASIX affected building,
 (b) development that involves a change of building use by which a building becomes a BASIX affected building,
 (c) development that involves the alteration, enlargement or extension of a BASIX affected building, where the estimated construction cost of the development is:
 (i) \$100,000 or more—in the case of development for which a development application or an application for a complying development certificate is made on or after 1 October 2006 and before 1 July 2007, or
 (ii) \$50,000 or more—in the case of development for which a development application or an application for a complying development certificate is made on or after 1 July 2007,
 (d) development for the purpose of a swimming pool or spa, or combination of swimming pools and spas, that services or service only one dwelling and that has a capacity, or combined capacity, of 40,000 litres or more."

The proposal is for the use and does not involve any building works. The existing lower ground floor on which the secondary dwelling is located is part of the existing BASIX affected building. As such the proposal does not involve the change of use by which a building becomes a BASIX affected building. As this application is for use only there is no cost of works. Therefore a BASIX Certificate is not required.

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 proposed change	N/A	Yes
Floor Space Ratio	FSR: 0.6:1	No proposed change (approved FSR: 0.63:1)	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
5.4 Controls relating to miscellaneous permissible uses	Yes
6.12 Essential services	Yes

Manly Development Control Plan

Built Form Controls

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Built Form Controls - Site Area: 334.4	Requirement	
4.1.1.1 Residential Density and Dwelling Size	Density: 250sqm per dwelling	
4.1.5.3 Private Open Space	12sqm per dwelling	5
Schedule 3 Parking and Access	Dwelling 2 spaces Secondary Dwelling 2 Spaces	

***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
3.4 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
4.1.1 Dwelling Density, Dwelling Size and Subdivision	No	Yes
4.1.5 Open Space and Landscaping	No	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	No	Yes

Detailed Assessment

3.4.2 Privacy and Security

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 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:

The existing building is adequately designed to ensure no unreasonable loss of privacy to the neighbouring properties. The access to the secondary dwelling is along the eastern side boundary. This is a point of access only and will not result in any unreasonable privacy impacts. The indoor and outdoor living areas are located appropriately to maintain the privacy of the neighbouring properties. The proposal will not result in any unreasonable overlooking of the neighbouring properties.

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 will maintain an appropriate level of privacy without compromising access to light and air. The proposal will achieve a balanced outlook from habitable rooms and private open space.

Objective 3) To encourage awareness of neighbourhood security.

Comment:

The proposal will maintain the sites existing passive surveillance of the neighbourhood.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP 2013 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.

4.1.1 Dwelling Density, Dwelling Size and Subdivision

Description of non-compliance

The Manly DCP 2013 requires 250sqm of site area per dwelling. The proposal will result in 167.2sqm of site area per dwelling.

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 promote a variety of dwelling types, allotment sizes and residential environments in Manly.

Comment

The proposal will increase the variety of dwelling types within the residential environment of the location.

Objective 2) To limit the impact of residential development on existing vegetation, waterways, riparian land and the topography.

Comment

The proposal is located within the existing building footprint and will not result in any unreasonable impact on existing vegetation, waterways, riparian land or the topography.

Objective 3) To promote housing diversity and a variety of dwelling sizes to provide an acceptable level of internal amenity for new dwellings.

Comment

The proposal will increase the housing diversity within the area. The secondary dwelling is of an adequate size to provide an acceptable level of internal amenity for the occupants.

Objective 4) To maintain the character of the locality and streetscape.

Comment

The proposal is located on the lower ground floor of the existing dwelling house and will not be visible from the street. The proposal will not result in any unreasonable impacts on the character of the locality or the streetscape.

Objective 5) To maximise the use of existing infrastructure.

Comment

The proposed development will maximise the use of the existing infrastructure in the area.

4.1.5 Open Space and Landscaping

Description of non-compliance

The Manly DCP 2013 requires 12sqm of principal private open space to be provided for each dwelling. The proposal provides 7sqm to the principal dwelling and 9sqm to the secondary dwelling.

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 retain and augment important landscape features and vegetation including remnant populations of native flora and fauna.

Comment:

The proposal is within the existing building footprint and will retain the important landscape features and vegetation on the site.

Objective 2) To maximise soft landscaped areas and open space at ground level, encourage appropriate tree planting and the maintenance of existing vegetation and bushland.

Comment:

The proposal will retain the existing soft landscape areas, landscaping and open space at ground level.

Objective 3) To maintain and enhance the amenity (including sunlight, privacy and views) of the site, the streetscape and the surrounding area.

Comment:

The existing principal private open space of both dwellings provide direct access to the rear yard where there is 93sqm of private open space. This will ensure the dwellings have adequate access to open space areas and will achieve a satisfactory level of amenity. Furthermore both dwellings have a northerly aspect ensuring they gain adequate access to sunlight. The proposal will not result in any unreasonable impacts on privacy or views within the locality. The proposal will maintain the amenity of the site streetscape and surrounding area.

Objective 4) To maximise water infiltration on-site with porous landscaped areas and surfaces and minimise stormwater runoff.

Comment:

The proposal will maintain the existing porous landscaped areas on the site.

Objective 5) To minimise the spread of weeds and the degradation of private and public open space.

Comment:

The proposal will not result in the spread of weeds.

Objective 6) To maximise wildlife habitat and the potential for wildlife corridors.

Comment:

The proposal will maintain the existing wildlife habitat on the site.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP 2013 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.

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

Description of non-compliance

The Manly DCP 2013 requires two parking space per dwelling. The proposed development requires four parking spaces. The existing parking on the site provides one parking space.

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:

The existing parking on the site is adequate to service the dwelling. The provision of a compliant level of parking would result in parking structures dominating the entire street frontage. The subject site is in close proximity to Sydney Road and will have good access to public transport. As such, the existing parking is adequate to service the development on the site. Clause 22(4) of the State Environmental Planning Policy (Affordable Rental Housing) 2009 specifies that a consent authority must not refuse consent to development if no additional parking is to be provided on the site. This clause is applicable to the proposed development.

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 existing parking is adequate to service the development on the site.

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 proposal does not include the construction of parking.

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:

The proposal does not include the construction of parking

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

Comment:

The proposal does not include any change to the existing access to the existing parking on the site.

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:

The existing parking is adequately integrated into the design of the development on the site.

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 proposal is in close proximity to Sydney Road and will have good access to bus services from this road. The proposal will encourage the use of public transport within the locality. By limiting parking on-site the proposal will also encourage the use of walking and cycling.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP 2013 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

Refer to Assessment by Council's Natural Environment Unit elsewhere within this report.

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

This part of the Act relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. The Act reads as follows:

- (1) If a consent authority is satisfied that development for which development consent is sought will or is likely to require the provision of or increase the demand for public amenities and public services within the area, the consent authority may grant the development consent subject to a condition requiring:*
- (a) the dedication of land free of cost, or*
 - (b) the payment of a monetary contribution,*
 - or both.*
- (2) A condition referred to in subsection (1) may be imposed only to require a reasonable dedication or contribution for the provision, extension or augmentation of the public amenities and public services concerned.'*

Comments:

In this case, the proposed development is likely to increase the demand for public amenities and public services within the area. Accordingly, suitable conditions have been included within the recommendation requiring payment of a section 94 contribution of \$20,000 in line with Manly Section 94 Contributions Plan.

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 DA2018/0543 for Use of part of the building as a secondary dwelling on land at Lot 9 DP 4449, 16 Baltic Street, 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
DA01 - Site Plan - Amendment A	4/04/2018	Simon Rosewell Pty Ltd
DA02 - Plans - Amendment A	4/04/2018	Simon Rosewell Pty Ltd
DA03 - Elevations 1 - Amendment A	4/04/2018	Simon Rosewell Pty Ltd
DA04 - Elevations 2 - Amendment A	4/04/2018	Simon Rosewell Pty Ltd
DA05 - Section- Amendment A	4/04/2018	Simon Rosewell Pty Ltd

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

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

d) The development is to be undertaken generally in accordance with the following:

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. (DACPLB01)

2. **Approved Land Use**

This consent is for the use of the lower ground floor as a secondary dwelling only. No consent has been granted for any physical works.

Reason: To ensure compliance with the terms of this consent. (DACPLB03)

3. **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 (DACPLB09)

4. **Section 94 Contribution - Residential**

A Section 94 contribution is to be paid for the provision of or increase the demand for public amenities and public services as a consequence of the development in the area. The total contribution for this development of use of part of the building as a secondary dwelling is \$20,000, being \$20,000.00 per additional dwelling. This contribution shall be paid to Council prior to the release of any Occupation Certificate.

Reason: To enable the provision of public amenities and services required/anticipated as a consequence of increased demand resulting from the development.

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

5. **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.

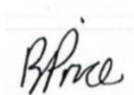
Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

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. (DACPLF07)

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

Signed



Benjamin Price, Planner

The application is determined under the delegated authority of:



Rodney Piggott, Manager Development Assessments

ATTACHMENT A

Notification Plan	Title	Date
 2018/228451	Plans - Notification	09/04/2018

ATTACHMENT B

Notification Document	Title	Date
 2018/231323	Notification Map	12/04/2018

ATTACHMENT C

Reference Number	Document	Date
 2018/228475	Plans - Survey	27/06/2017
 2018/228438	Report - Statment of Environmental Effects	04/04/2018
 2018/228440	Report - Waste Management Plan	04/04/2018
 2018/228448	Report - Historical Consents	04/04/2018
 DA2018/0543	16 Baltic Street FAIRLIGHT NSW 2094 - Development Application - Use	09/04/2018
 2018/223053	DA Acknowledgement Letter - Kevin John Rounsley	09/04/2018
 2018/228451	Plans - Notification	09/04/2018
 2018/228479	Plans - External	09/04/2018
 2018/228480	Plans - Internal	09/04/2018
 2018/228431	Development Application Form	11/04/2018
 2018/228432	Applicant Details	11/04/2018
 2018/228482	Plans - Master Set	11/04/2018
 2018/231365	Building Assessment - Fire and Disability upgrades - Assessment Referral - DA2018/0543 - 16 Baltic Street FAIRLIGHT NSW 2094-PR	11/04/2018
 2018/231306	DA Acknowledgement Letter (not integrated) - Kevin John Rounsley	12/04/2018
 2018/231316	ARP Notification Map	12/04/2018
 2018/231323	Notification Map	12/04/2018
 2018/231330	Notification Letter - 26	12/04/2018
 2018/256946	Building Assessment Referral Response	26/04/2018
 2018/259629	Request to adjust - submission acknowledgement - Baker	26/04/2018
 2018/264290	Confidential Online Submission - Baker	01/05/2018
 2018/264670	Confidential Online Submission - Baker	01/05/2018
 2018/272870	Confirmation of Notification Sign - DA2018/0543 16 Baltic Street Fairlight	03/05/2018
 2018/309372	Working Plans	22/05/2018
 2018/359483	Assessment Report	13/06/2018
 2018/359783	Notice of Determination	14/06/2018
 2018/359788	Full Set Stamped Plans	14/06/2018
 2018/361533	Stamped Plans	14/06/2018
 2018/361561	Notice of Determination email for DA MOD and REV -	14/06/2018

DA2018/0543 - 16 Baltic Street FAIRLIGHT NSW
2094

	2018/371052	Submission Acknowledgement Letter - Peter James Hudson Baker & Ruth Baker - SA2018/264290	18/06/2018
	2018/371514	Assessment Report	19/06/2018