

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2024/1740
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Responsible Officer:	Kye Miles
Land to be developed (Address):	Lot 2 DP 1015508, 139 Lagoon Street NARRABEEN NSW 2101
Proposed Development:	Alterations and additions to a dwelling house including garage and driveway
Zoning:	Warringah LEP2011 - Land zoned R2 Low Density Residential
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Applicant:	Malcolm Cooke

Application Lodged:	07/01/2025
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - Alterations and additions
Notified:	17/01/2025 to 31/01/2025
Advertised:	Not Advertised
Submissions Received:	4
Clause 4.6 Variation:	Nil
Recommendation:	Refusal

Estimated Cost of Works:	\$ 400,000.00
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PROPOSED DEVELOPMENT IN DETAIL

Development application for alterations and additions to a dwelling house including garage and driveway. The works comprise;

- Excavation and earthworks
- Construction of a double garage with new driveway access via Lagoon Street
- Associated landscaping works

AMENDED PLANS

During the assessment of the application, amended plans were submitted that reduced the width and

height of the garage.

The proposed materials and finishes were also changed as part of this revision.

The assessment of the application is based on the amended plans.

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

Warringah Local Environmental Plan 2011 - Zone R2 Low Density Residential

Warringah Development Control Plan - A.5 Objectives

Warringah Development Control Plan - B5 Side Boundary Setbacks

Warringah Development Control Plan - B7 Front Boundary Setbacks

Warringah Development Control Plan - C2 Traffic, Access and Safety

Warringah Development Control Plan - C3 Parking Facilities

Warringah Development Control Plan - D1 Landscaped Open Space and Bushland Setting

SITE DESCRIPTION

Property Description:	Lot 2 DP 1015508 , 139 Lagoon Street NARRABEEN NSW 2101
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the eastern side of Lagoon Street.</p> <p>The site is regular in shape with a frontage of 15.24m along Lagoon Street and a depth of 30.48m. The site has a surveyed area of 464.5m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates two-storey dwelling with an</p>

attached double garage that is accessed via a ROW from Malcolm Street.

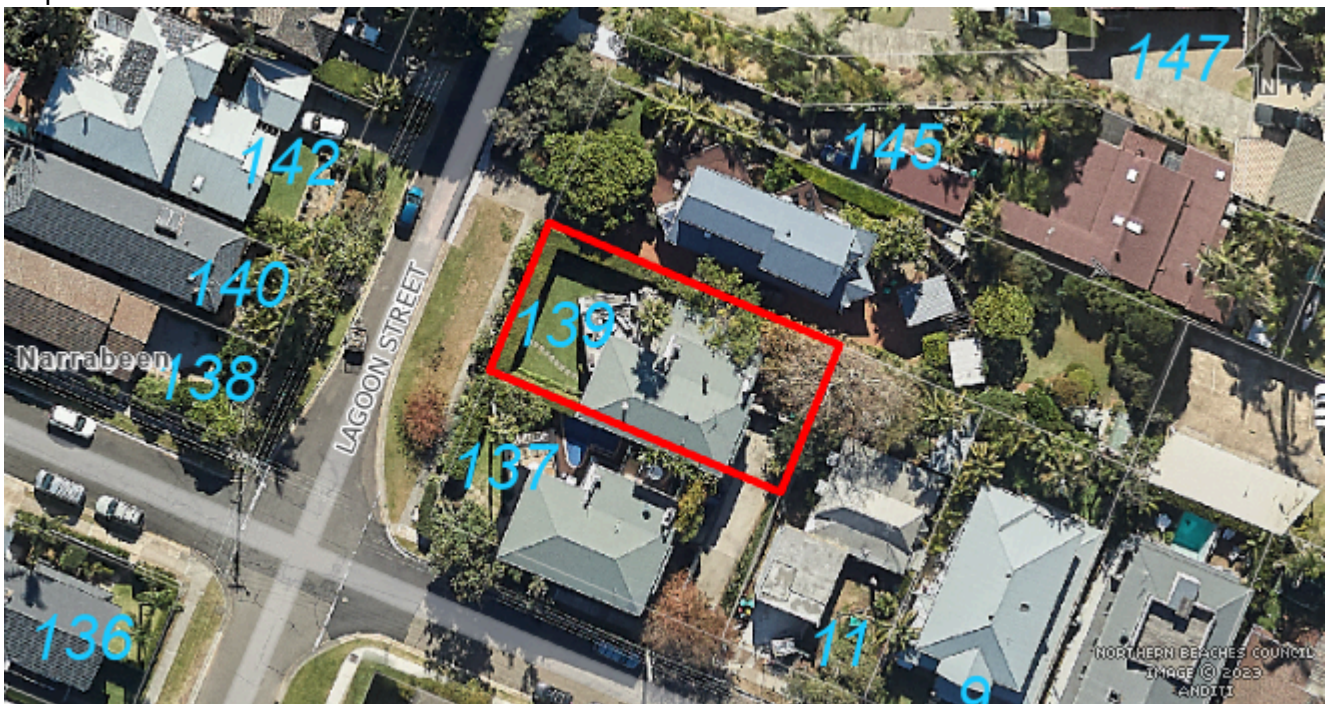
The site is flat with no topological constraints.

The site's frontage is characterised by a densely vegetated garden bed that reasonably screens the adjacent lawn area and existing dwelling. Elsewhere on the site, medium-sized trees are present along the northern side boundary. There is no evidence of any endangered species.

Detailed Description of Adjoining/Surrounding Development

Adjoining and surrounding development is characterised by two-three storey residential flat buildings and one-two storey detached and semi-detached dwellings. Narrabeen Lagoon is approximately 60 metres north.

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:

DA2024/0487

Development application for alterations and additions to a dwelling house including a new garage and driveway.

This application was withdrawn 27 June 2024 due to an inadequate response to the RFI issues.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

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

Section 4.15 Matters for Consideration	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	There are no current draft environmental planning instruments.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p>Part 4, <u>Division 2</u> of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters would be addressed via a condition of consent were the application recommended for approval.</p> <p><u>Clauses 36 and 94</u> of the EP&A Regulation 2021 allow Council to request additional information. Additional information was requested in the form of amended plans.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. These matters would be addressed via a condition of consent were the application recommended for approval.</p> <p><u>Clause 69</u> of the EP&A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). These matters would be addressed via a condition of consent were the application recommended for approval.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report.</p> <p>In summary, the impacts are significant and warrant the refusal of the application.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact The proposed development will not have a detrimental economic</p>

Section 4.15 Matters for Consideration	Comments
	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 unsuitable 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	<p>This assessment has found that the proposal is contrary to numerous requirements of the applicable planning controls and would result in a development that has unsatisfactory streetscape impacts and visual impacts to surrounding properties and the public domain.</p> <p>The extent of these impacts would undermine the desired future character of the locality and be contrary to the expectations of the community.</p> <p>In this regard, the development, as proposed, is not considered to be in the public interest.</p>

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 application has been publicly exhibited from 17/01/2025 to 31/01/2025 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 4 submission/s from:

Name:	Address:
Mr Bruce John Carey	6 a Larool Road TERREY HILLS NSW 2084
Charles Paul Wesley	137 Lagoon Street NARRABEEN NSW 2101
Mr Stewart David McGeady	11 Malcolm Street NARRABEEN NSW 2101
Mr Thomas Webster	141 Lagoon Street NARRABEEN NSW 2101

Four (4) submissions in support of the application were received, which are noted.

REFERRALS

Internal Referral Body	Comments
Environmental Health (Acid Sulfate)	<p>General Comments</p> <p>The supplied Acid Sulphate Soils report did not find potential Acid Sulphate Soils</p> <p>Recommendation</p> <p>APPROVAL - no conditions</p>
Landscape Officer	<p>The application seeks consent for: Alterations and additions to a dwelling house including garage and driveway.</p> <p>The plans indicate that a new garage is proposed on the front boundary with associated level changes to the verge to accommodate the new crossover. An existing public footpath is indicated to be removed and replaced along the kerb edge. Retaining walls and paving are proposed to be constructed within the road reserve as well.</p> <p>No significant landscape features are impacted by the proposed works. Sections of an existing hedge within the property and planter within the road reserve are to be removed under the proposal, which are not objected to from a landscape perspective.</p> <p>A palm tree on the adjoining property is located near the proposed garage, however no significant impacts are anticipated due to the fibrous nature of palm roots and offset distance from the works.</p> <p>Planters above the garage are proposed with an indicative plant species list included in the drawing set. The majority of the garage roof area is indicated to be 450mm deep, which can support low shrubs and grasses, but would not qualify as landscape area for LOS calculations.</p> <p>There appears to be a number of issues that may be raised regarding works within the road reserve and proposed landscape area calculations from a planning perspective, however, no objections are raised regarding landscape issues subject to conditions.</p>
NECC (Bushland and Biodiversity)	<p>Council's Biodiversity Referrals team have assessed the Development Application for compliance against the following applicable provisions:</p> <ul style="list-style-type: none"> • Warringah DCP cl. E2 Prescribed Vegetation • Warringah DCP cl. E6 Retaining Unique Environmental Features • SEPP (Resilience and Hazards) 2021 - Coastal Environment Area

Internal Referral Body	Comments
	<p>The proposed development is located within an existing cleared area, turfed and landscaped with hedges and planted exotics. The partial removal of the turf, hedge and exotic plantings will be replaced with a turfed green roof above the proposed garage with planter wall and other associated landscaping within the area.</p> <p>No objections in relation to biodiversity.</p>
NECC (Coast and Catchments)	<p>The applicant seeks development consent to undertake the following:</p> <ul style="list-style-type: none"> - the construction of new garage - alterations to pedestrian entry to the site - alteration of existing path on council property <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Coastal Management Act (2016) • State Environmental Planning Policy (Resilience and Hazards) 2021 (section 2.10, 2.11 & 2.12); • Relevant LEP and DCP clauses. <p>Comment: SUPPORTED WITH CONDITIONS</p> <p>State Environmental Planning Policy (Resilience & Hazards) 2021</p> <p>The subject land has been included on the 'Coastal Use Area' and 'Coastal Environmental Area' maps under the State Environmental Planning Policy (Resilience & Hazards) 2021 (SEPP R & H). Hence, Clauses 2.10, 2.11 and 2.12 of the CM (R & H) apply for this DA.</p> <p>Comment:</p> <p>On internal assessment, the DA satisfies requirements under clause 2.10, 2.11 & 2.12 of the SEPP R&H. As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Resilience & Hazards) 2021.</p> <p>Pittwater LEP 2014 and Pittwater 21 DCP</p> <p>No other coastal related issues identified.</p> <p>As such, it is considered that the application does comply with the requirements of the coastal relevant clauses of the Pittwater LEP 2014 and Pittwater 21 DCP.</p>
NECC (Development Engineering)	<p>11/04/2025</p> <p><u>Development Engineering 2nd Referral Comments.</u></p>

Internal Referral Body	Comments
	<ul style="list-style-type: none"> • After discussing with Council's Planning team, the proposed parking facility cannot be supported from planning perspective. In addition, the proposed variations to Council's Road Reserve is not ideal. • However, Council's Road Assets team can support the proposed works within the Road Reserve subject to applying a Positive Covenant on the retaining structures within the Road Reserve for future maintenance. <p>30/01/2025</p> <p><u>Development Engineering 1st Referral Comments.</u></p> <p><u>Council's Development Engineer cannot support this proposal due to the site access and parking.</u></p> <p>Stormwater</p> <p>The site drains to the front. Stormwater to be directed to the existing onsite drainage system to the street is generally satisfactory subject to conditions.</p> <p>Site Access and Parking</p> <p><u>Considering the subject site already has an existing site access at the rear, Council's Development Engineer does not support the proposed vehicular access with reasons detailed below.</u></p> <ul style="list-style-type: none"> • Too much proposed variations compared to the existing within Council's Road Reserve. The proposed vehicular crossover will create up to approximately 1.5m deep excavations within Council's Road Reserve. The existing stairs are proposed to be removed. New retaining structures and battering are proposed. • The existing footpath is proposed to be relocated to along the back of the kerb line, which will make the pedestrian access difficult for the neighbouring property (141 Lagoon Street).
NECC (Riparian Lands and Creeks)	<p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> - Supplied plans and reports; - Coastal Management Act 2016; - State Environmental Planning Policy (Resilience and Hazards) 2021; - Relevant LEP and DCP clauses; and - Northern Beaches Council Water management for development policy.

Internal Referral Body	Comments
	<p>This proposal is supported. Details below.</p> <p>Riparian The site is located near Narrabeen Lagoon and as such proposed development must not significantly impact on the biophysical, hydrological or ecological integrity of Narrabeen Lagoon or the quantity and quality of surface and ground water flows that it receives.</p> <p>Sediment Management Sediment and erosion controls must be installed prior to any disturbance of soil on site and maintained until all work is complete and groundcover re-established.</p>

External Referral Body	Comments
Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48	The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.
Aboriginal Heritage Office	<p>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</p> <p>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</p> <p>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs 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 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 (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application.

Were the application recommended for approval, a condition would be included requiring compliance with the commitments indicated in the BASIX Certificate.

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

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

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions. Were the application recommended for approval, a condition would be included requiring compliance with the relevant requirements.

SEPP (Resilience and Hazards) 2021

Chapter 2 – Coastal Management

The site is subject to Chapter 2 of the SEPP. Accordingly, an assessment under Chapter 2 has been carried out as follows:

Division 3 Coastal environment area

2.10 Development on land within the coastal environment area

- 1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
 - a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - b) coastal environmental values and natural coastal processes,
 - c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,

- d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
- e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
- f) Aboriginal cultural heritage, practices and places,
- g) the use of the surf zone.

Comment:

The subject site is located within the Coastal Environment Area. As such, Council's Coast and Catchments Officer has reviewed the development against the matters as prescribed within this Clause and are satisfied the proposal complies with these matters, subject to conditions.

- 2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
 - a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subsection (1), or
 - b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

As above, Council's Coast and Catchments Officer is satisfied that the development has been appropriately designed to avoid an adverse impact to the above matters.

Division 4 Coastal use area

2.11 Development on land within the coastal use area

- 1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
 - a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - iv) the visual amenity and scenic qualities of the coast, including coastal headlands, Aboriginal cultural heritage, practices and places, cultural and built environment heritage, and
 - b) is satisfied that:
 - i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and

- c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The subject site is located within the Coastal use area. As such, Council's Coast and Catchments Officer has reviewed the development against the matters as prescribed within this Clause and are satisfied the proposal complies with these matters, subject to conditions.

Division 5 General

2.12 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

Comment:

This Clause applies to the subject site. As such, Council's Coast and Catchments Officer has reviewed the modified development against the matters as prescribed within this Clause and are satisfied the proposal complies with these matters, subject to conditions.

2.13 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

Comment:

Council's Coast and Catchments Officer has reviewed the development and is satisfied that the proposal complies with the relevant provisions of the Coastal Zone Management Plan for Collaroy-Narrabeen Beach and Fishermans Beach dated (December 2016) that applies to the land.

As such, it is considered that the application complies with the requirements of Chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 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 sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

Warringah Local Environmental Plan 2011

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?	No

Principal Development Standards

Standard	Requirement	Proposed	Complies
Height of Buildings:	8.5m	2.0m	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.6 Exceptions to development standards	N/A
6.1 Acid sulfate soils	Yes
6.2 Earthworks	Yes
6.4 Development on sloping land	Yes

Detailed Assessment

Zone R2 Low Density Residential

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 involves alterations and additions to a dwelling, with no changes to the existing density.

The proposal **satisfies** this objective.

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

Comment:

Not applicable, as the residential use is retained.

The proposal **satisfies** this objective.

- To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

Comment:

The proposal gives rise to unacceptable streetscape outcomes, with the removal of existing landscaped open space to provide additional parking in the front setback, which is contrary to

the above objective.

The proposal **does not** satisfy this objective.

Warringah Development Control Plan

Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
B1 Wall height	7.2m	Garage beneath existing ground level	N/A	N/A
B3 Side Boundary Envelope	4m	Within envelope	N/A	Yes
	4m	Within envelope	N/A	Yes
B5 Side Boundary Setbacks	0.9m - North	6.3m (Garage)	N/A	Yes
	0.9m - South	0.6m (Garage)	33.3%	No
B7 Front Boundary Setbacks	6.5m	Nil (Garage)	100%	No
B9 Rear Boundary Setbacks	6m	Works in frontage	N/A	N/A
D1 Landscaped Open Space (LOS) and Bushland Setting	40%	21.5% (100m ²)	53.8%	No

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A.5 Objectives	No	No
B1 Wall Heights	Yes	Yes
B3 Side Boundary Envelope	Yes	Yes
B5 Side Boundary Setbacks	No	No
B7 Front Boundary Setbacks	No	No
B9 Rear Boundary Setbacks	Yes	Yes
C2 Traffic, Access and Safety	No	No
C3 Parking Facilities	No	No
C4 Stormwater	Yes	Yes
C7 Excavation and Landfill	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
D1 Landscaped Open Space and Bushland Setting	No	No
D2 Private Open Space	Yes	Yes
D3 Noise	Yes	Yes
D6 Access to Sunlight	Yes	Yes
D7 Views	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
D8 Privacy	Yes	Yes
D9 Building Bulk	Yes	Yes
D10 Building Colours and Materials	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D14 Site Facilities	Yes	Yes
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E8 Waterways and Riparian Lands	Yes	Yes
E10 Landslip Risk	Yes	Yes

Detailed Assessment

A.5 Objectives

A detailed assessment of this application has determined that the proposal will not be consistent with the objectives and controls of the following parts of the Warringah Development Control Plan 2011 (WDCP 2011):

- B5 Side Boundary Setbacks;
- B7 Front Boundary Setbacks;
- C2 Traffic, Access and Safety;
- C3 Parking Facilities; and
- D1 Landscaped Open Space and Bushland Setting.

As such, the application has not demonstrated that proposal is consistent with the following primary aims of the WDCP 2011:

- *To ensure development responds to the characteristics of the site and the qualities of the surrounding neighbourhood; and*
- *To ensure new development is a good neighbour, creates a unified landscape, contributes to the street, reinforces the importance of pedestrian areas and creates an attractive design outcome.*
- *To protect environmentally sensitive areas from overdevelopment or visually intrusive development so that scenic qualities, as well as the biological and ecological values of those areas, are maintained.*

Therefore, it is recommended that the application be refused for these reasons.

B5 Side Boundary Setbacks

Description of Non-compliance

The proposed garage is set back 0.6m from southern side boundary. The control requires a minimum

setback of 0.9m for any above or below ground structures.

Merit Consideration

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

- *To provide opportunities for deep soil landscape areas.*

Comment:

As discussed in Part D1 of this report, the proposed additional off-street parking reduces deep soil landscape areas, particularly within the southwest corner of the site, but within the site generally. This reduction is unacceptable, as it further intensifies an existing deficiency in landscaped areas across the site. In this regard, the proposal does not provide adequate opportunities for deep soil landscaping and will detract from the landscape setting of the existing development.

The proposal **does not** satisfy this objective.

- *To ensure that development does not become visually dominant.*

Comment:

The proposed side setback non-compliance only relates to the garage's southeast corner, which is subterranean and not visible from the street. This aspect of the development is not expected to result in any undue visual impacts.

The proposal **satisfies** this objective.

- *To ensure that the scale and bulk of buildings is minimised.*

Comment:

The proposed setback breach does not create any unreasonable building bulk.

The proposal **satisfies** this objective.

- *To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained.*

Comment:

The proposal has been designed to maintain a reasonable level of amenity with adjoining buildings.

The proposal **satisfies** this objective.

- *To provide reasonable sharing of views to and from public and private properties.*

Comment:

The development does not result in the loss of views from any private properties or from the public domain.

The proposal **satisfies** this objective.

Having regard to the above assessment, it is concluded that the proposed development is **inconsistent** with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979.

Accordingly, this assessment finds that the proposal is **not supported**, in this particular circumstance.

B7 Front Boundary Setbacks

Description of Non-compliance

The proposed garage involves a nil setback to the front boundary with Lagoon Street.

Under Clause B7 Front Boundary Setbacks of the WDCP, development is to maintain a minimum setback from the front boundary of 6.5m. The control stipulates that the front boundary setback area is to be landscaped and generally free of any structures, basements, carparking or site facilities other than driveways, letter boxes, garbage storage areas and fences.

Merit Consideration

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

- *To create a sense of openness.*

Comment:

The front setback currently comprises a dense garden area with hedging and open lawn. The existing dwelling is generously set back approximately 9.0m from the front boundary. The proposed development will result in an unacceptable occupation of the front setback area with built form associated with surplus/oversupply of parking. Under these circumstances, the application fails to provide an adequate sense of openness and this objective is not achieved.

The proposal **does not** satisfy this objective.

- *To maintain the visual continuity and pattern of buildings and landscape elements.*

Comment:

The proposal is inconsistent with the established streetscape and the desired future character for Lagoon Street. While some detached dwellings in the broader locality have parking within the front setback area, these are typically open-style carports serving as the site's only off-street parking. Additionally, the front setback non-compliance, driven by the surplus/oversupply of parking, would significantly reduce deep soil landscaping within the front portion of the site.

The proposal **does not** satisfy this objective.

- *To protect and enhance the visual quality of streetscapes and public spaces.*

Comment:

The proposed works will result in an unacceptable occupation of the front setback area and result in a development that presents an unsatisfactory visual amenity outcome when viewed from the adjoining public domain.

The proposal **does not** satisfy this objective.

- *To achieve reasonable view sharing.*

Comment:

The proposal would not result in any unacceptable view sharing impacts.

The proposal **satisfies** this objective.

Having regard to the above assessment, it is concluded that the proposed development is **inconsistent** with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979.

Accordingly, this assessment finds that the proposal is **not supported**, in this particular circumstance.

C2 Traffic, Access and Safety

The proposal does not comply with the following requirements of the control based on the detailed Development Engineer comments included in the Referrals section this report:

1. Applicants shall demonstrate that the location of vehicular and pedestrian access meets the objectives.

The inconsistency with the requirements and objectives of this control forms a recommended reason for refusal.

C3 Parking Facilities

Merit Consideration

The development is considered against the underlying Objectives of the Control as follows:

- *To provide adequate off street carparking.*

Comment:

The site presently includes off-street parking in the form of an attached double garage accessed via a right-of-way (ROW) from Malcolm Street. As such, the proposed development would be surplus off-street parking that is above and beyond the DCP requirement for a dwelling and is not desirable in the R2 low density context.

The proposal **satisfies** this objective.

- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*

Comment:

As described earlier in this report under Section B7 Front Boundary Setbacks, the proposed garage will result in an unacceptable impact to the streetscape, and is not supported, noting that the site already has adequate off-street parking that is appropriately located.

The proposal **does not** satisfy this objective.

- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

Comment:

The proposed double garage façade is 7.4m wide and positioned at a nil front setback. It is located on the high side of the street, occupying a prominent position within the immediate streetscape. The garage floor level sits approximately 0.7m above the street kerb, requiring significant excavation within the road reserve and front setback to provide suitable access. Given its location and design, the proposal is considered to be excessively visually dominant in the street frontage.

The proposal **does not** satisfy this objective.

Having regard to the above assessment, it is concluded that the proposed development is **inconsistent** with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979.

Accordingly, this assessment finds that the proposal is **not supported**, in this particular circumstance.

D1 Landscaped Open Space and Bushland Setting

Description of Non-compliance

The proposal involves a total of **21.5%** (100m²) landscaped open space (LOS), representing a variation of 53.8% (85.8m²) to the required 40% (185.8m²).

Under Clause D1 Landscaped Open Space and Bushland Setting of the Warringah Development Control Plan 2011, the following requirements apply when calculating LOS:

- a) Driveways, paved areas, roofed areas, tennis courts, car parking and stormwater structures, decks, etc, and any open space areas with a dimension of less than 2 metres are excluded from the calculation;*
- b) The water surface of swimming pools and impervious surfaces which occur naturally such as rock outcrops are included in the calculation;*
- c) Landscaped open space must be at ground level (finished); and*
- d) The minimum soil depth of land that can be included as landscaped open space is 1 metre.*

In this case, the proposal includes areas with insufficient soil depth and substandard dimensions within

the site's frontage and side setbacks, which have been inappropriately included from the LOS calculation.

The proposed LOS comprises two main areas, one in the front setback and one in the rear. The rear area involves replacing existing astro-turf and paving with lawn; however, this astro-turf area is to be reinstated to its previously approved natural condition and therefore does not contribute additional LOS.

As a result, the existing approved LOS provision remains at **36.9%** (171.6m²).

The proposal thus results in a reduction of 15.4% (71.6m²) in LOS.

Merit Consideration

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

- *To enable planting to maintain and enhance the streetscape.*

Comment:

The site benefits from a wide road reserve, currently comprising turf areas and mature plantings that extend from Council land onto the subject development site. The site's frontage presents a relatively dense landscaped appearance when viewed from Lagoon Street.

The proposed additional vehicular access point requires substantial removal of natural features within the frontage and road reserve. Furthermore, the proposed double garage results in a significant reduction in landscaped open space (LOS), amounting to 13.9% or 64.6m².

To mitigate the loss of streetscape plantings, elevated planter boxes and a green roof are proposed atop the new garage. However, this design introduces a major change to an otherwise natural-looking streetscape and offers a largely inadequate landscape response to the resulting impact.

Overall, the development and its landscape outcome fail to support new plantings or enhance the existing streetscape.

The proposal **does not** satisfy this objective.

- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*

Comment:

The proposal will not unreasonably impact on existing indigenous vegetation, topographical features, or habitat for wildlife.

The proposal **satisfies** this objective.

- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density*

to mitigate the height, bulk and scale of the building.

Comment:

It is considered that the proposals non-compliant location prevents sufficient plantings within the frontage. Therefore, due to the reduced front setback, there is not sufficient area for the establishment of plantings to mitigate the height, bulk and scale of the proposal.

The proposal **does not** satisfy this objective.

- *To enhance privacy between buildings.*

Comment:

The proposal will not give rise to any adverse privacy impacts.

The proposal **satisfies** this objective.

- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*

Comment:

The site provides soft landscaped areas sufficient to accommodate appropriate outdoor recreational opportunities to meet the needs of future occupants.

The proposal **satisfies** this objective.

- *To provide space for service functions, including clothes drying.*

Comment:

The proposal provides adequate space for service functions, including clothes drying.

The proposal **satisfies** this objective.

- *To facilitate water management, including on-site detention and infiltration of stormwater.*

Comment:

Council's Development Engineer has assessed the stormwater aspects of the proposal and raises no objections to water management.

The proposal **satisfies** this objective.

Having regard to the above assessment, it is concluded that the proposed development is **inconsistent** with the relevant objectives of WDCP and the objectives specified in s1.3 of the Environmental Planning and Assessment Act, 1979.

Accordingly, this assessment finds that the proposal is **not 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 2024

The proposal is subject to the application of Northern Beaches Section 7.12 Contributions Plan 2024.

A monetary contribution of \$4,000 is required for the provision of new and augmented public infrastructure. The contribution is calculated as 1% of the total development cost of \$400,000.

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 2021;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan;
- Warringah 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, in this regard the application is not considered to be acceptable and is recommended for refusal.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Inconsistent with the objectives of the DCP
- Inconsistent with the zone objectives of the LEP
- Inconsistent with the aims of the LEP
- Inconsistent with the objectives of the relevant EPIs
- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council, as the consent authority REFUSE Development Consent to Development Application No DA2024/1740 for the Alterations and additions to a dwelling house including garage and driveway

on land at Lot 2 DP 1015508, 139 Lagoon Street, NARRABEEN, for the reasons outlined as follows:

1. Inconsistent with Warringah Local Environmental Plan 2011

Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of the Warringah Local Environmental Plan 2011.

Particulars

a) The development is inconsistent with Section 1.2 - Aims of Plan, as the development does not meet the following objectives of this control:

- *protect and enhance the residential use and amenity of existing residential environments,*
- *promote development that is compatible with neighbouring development in terms of bulk, scale and appearance, and*
- *ensure that development does not have an adverse effect on streetscapes and vistas, public places, areas visible from navigable waters or the natural environment*

b) The development is inconsistent with the Objectives of the R2 Low Density Residential zone, as the development does not meet the following objective:

- *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

2. Inconsistent with Warringah Development Control Plan 2011

Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of the Warringah Development Control Plan 2011.

Particulars

a) The development is inconsistent with Clause A.5 - Objectives, as the development does not meet the following objectives of this control:

- *To ensure development responds to the characteristics of the site and the qualities of the surrounding neighbourhood;*
- *To ensure new development is a good neighbour, creates a unified landscape, contributes to the street, reinforces the importance of pedestrian areas and creates an attractive design outcome; and*
- *To protect environmentally sensitive areas from overdevelopment or visually intrusive development so that scenic qualities, as well as the biological and ecological values of those areas, are maintained.*

b) The development is inconsistent with Clause B5 - Side Boundary Setbacks, as the development includes structures within the 0.9m southern side setback area and the development does not meet the following objective of this control:

- *To provide opportunities for deep soil landscape areas.*

c) The development is inconsistent with Clause B7 - Front Boundary Setbacks, as the development includes structures within the 6.5m front setback area and the development does not meet the following objectives of this control:

- *To create a sense of openness;*
- *To maintain the visual continuity and pattern of buildings and landscape elements; and*
- *To protect and enhance the visual quality of streetscapes and public spaces.*

d) The development is inconsistent with Clause - C2 Traffic, Access and Safety, as the development does not demonstrate that the location of vehicular and pedestrian access meets the following objectives of this control:

- *To minimise the number of vehicle crossings in a street; and*
- *To minimise traffic, pedestrian and cyclist conflict.*

e) The development is inconsistent with Clause - C3 Parking Facilities, as the development does not demonstrate consistency with the relevant design principles for parking facilities and does not meet the following objectives of this control:

- *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place; and*
- *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*

f) The development is inconsistent with Clause D1 - Landscaped Open Space and Bushland Setting, as the development does not achieve the minimum landscaped open space requirement of 40% and does not meet the following objectives of this control:

- *To enable planting to maintain and enhance the streetscape, and*
- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*

3. **Suitability of the Site**

Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the site is considered unsuitable for the proposed development.

Particulars

a) The development is contrary to the requirements and objectives of various controls within the Warringah Local Environmental Plan 2011 and Warringah Development Control Plan 2011.

b) Consequently, the development for surplus off-street parking constitutes an overdevelopment, making it unsuitable and inappropriate for the site.

4. **Public Interest**

Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.

Particulars

- a) The development is contrary to the requirements and objectives of various controls within the Warringah Local Environmental Plan 2011 and Warringah Development Control Plan 2011.
- b) Consequently, the development would create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community. In this regard, the development, as proposed, is not considered to be in the public interest.

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

Signed



Kye Miles, Planner

The application is determined on 01/05/2025, under the delegated authority of:



Steven Findlay, Manager Development Assessments