

## APPLICATION FOR MODIFICATION ASSESSMENT REPORT

<b>Application Number:</b>	Mod2023/0270
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<b>Responsible Officer:</b>	Stephanie Gelder
<b>Land to be developed (Address):</b>	Lot 42 DP 13750, 82 Clontarf Street SEAFORTH NSW 2092
<b>Proposed Development:</b>	Modification of Development Consent DA2022/1721 granted for Alterations and additions to a dwelling house
<b>Zoning:</b>	Manly LEP2013 - Land zoned R2 Low Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Stephen John Porter
<b>Applicant:</b>	Site Specific Designs

<b>Application Lodged:</b>	22/05/2023
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Refer to Development Application
<b>Notified:</b>	30/05/2023 to 13/06/2023
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

### PROPOSED DEVELOPMENT IN DETAIL

The proposed modification works to DA2022/1721 comprise of the following:

- Amendments to proposed doors and windows;
- Amendment from Colorbond metal roof to tiles for garage roof, with the roof pitch increased from 15 degrees to 17 degrees to accommodate material change; and
- Lowering the existing and proposed basement slabs.

### 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

There are no assessment issues.

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 42 DP 13750 , 82 Clontarf Street SEAFORTH NSW 2092
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the eastern side of Clontarf Street.</p> <p>The site is regular in shape with a frontage of 13.715m along Clontarf Street and a depth of 57.91m. The site has a surveyed area of 794.3m<sup>2</sup>.</p> <p>The site is located within the R2 Low Density Residential zone from MLEP 2013 and accommodates a dwelling house currently under construction as per DA2022/1721.</p> <p>The site slopes across the site from the front south-western corner to the rear north-eastern corner over approximately 3 metres.</p> <p>The site is currently under construction as per DA2022/1721 and contains lawn areas, hedging and plantings in the rear yard. There are no details of any threatened species on the subject site.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by one and two storey dwellings varying in architectural style and design.</p>

Map:



## SITE HISTORY

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

### **DA84/2013**

Development Application for Alterations and additions to an existing dwelling including a rear deck with the extension of the eaves, shade sail and bi-fold doors.

Approved on 16 July 2013.

### **DA2022/1721**

Development Application for Alterations and additions to a dwelling house.

Approved on 18 January 2023.

### **CC2023/0382**

Construction Certificate for Alterations and additions to a dwelling house.

Approved on 13 April 2023 by External Certifier.

### **NOC2023/0332**

Appointment of Principal Certifier and Notice of Commencement for Alterations and additions to a dwelling house.

Dated 17 April 2023.

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

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

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 and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated

regulations;

- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2022/1721, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.55 (2) of the Environmental Planning and Assessment Act, 1979, are:

Section 4.55 (2) - Other Modifications	Comments
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>The consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2022/1721 for the following reasons:</p> <ul style="list-style-type: none"> <li>• The consent authority can be satisfied that the development to which the consent as modified relates is substantially the same as the development for which the consent was originally granted under DA2022/1721.</li> <li>• The proposed modification works are considered to be substantially the same, as the existing development standards, and built form controls are unchanged.</li> <li>• The proposed modification works relate to amendments to windows and doors, amendment to the garage roof material and pitch, and lowering of the basement slab.</li> <li>• A Construction Certificate (CC2023/0382) has been issued for the Development Consent, and it is noted that Engineering Plans (prepared by Greenwood Consulting Engineers) have been provided for the Basement Slab and approved under the Construction Certificate.</li> <li>• It is considered that the proposed modification works relate directly to</li> </ul>

Section 4.55 (2) - Other Modifications	Comments
	the original consent, and as such are considered to be substantially the same.
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	Development Application DA2022/1721 did not require concurrence from the relevant Minister, public authority or approval body.
(c) it has notified the application in accordance with:  (i) the regulations, if the regulations so require,  or  (ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and	The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	See discussion on "Notification & Submissions Received" in this report.

## Section 4.15 Assessment

In accordance with Section 4.55 (3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 (2) the consent authority must take into consideration such of the matters referred to in section 4.15 (1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 4.15 of 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	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment	Part 4, Division 2 of the EP&A Regulation 2021 requires the consent authority to consider "Prescribed

Section 4.15 'Matters for Consideration'	Comments
Regulation 2021 (EP&A Regulation 2021)	<p>conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 29</u> of the EP&amp;A Regulation 2021 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p><u>Clauses 62 and/or 64</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 69</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Manly Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions	See discussion on "Notification & Submissions"

Section 4.15 'Matters for Consideration'	Comments
made in accordance with the EPA Act or EPA Regs	Received" in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 30/05/2023 to 13/06/2023 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 of the application Council received no submissions.

## REFERRALS

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.

## 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 (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No.A461887\_03 dated 12

May 2023).

A condition has been included in the recommendation of this report 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 which have been included in the recommendation of this report.

## **SEPP (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.

## **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	Approved	Proposed	% Variation	Complies
Height of Buildings:	8.5m	8.5m	8.5m - unaltered	-	Yes

Floor Space Ratio	FSR: 0.45:1 (357.43m <sup>2</sup> )	FSR: 0.406:1 (322.7m <sup>2</sup> )	FSR: 0.406:1 (322.7m <sup>2</sup> ) - unaltered	-	Yes
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#### Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
4.5 Calculation of floor space ratio and site area	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.12 Essential services	Yes

#### Manly Development Control Plan

#### Built Form Controls

Built Form Controls - Site Area: 794.3m <sup>2</sup>	Requirement	Approved	Proposed	Complies
4.1.1.1 Residential Density and Dwelling Size	Density: 1 dwellings	1	unaltered	Yes
	Dwelling Size: 500.0m <sup>2</sup>	263.5m <sup>2</sup>	unaltered	Yes
4.1.2.1 Wall Height	N: 6.9m (based on gradient 1:15)	6.04m	unaltered	Yes
	S: 6.8m (based on gradient 1:20)	6.56m	unaltered	Yes
4.1.2.3 Roof Height	Height: 2.5m	1.4m	unaltered	Yes
	Pitch: maximum 35 degrees	16.12 degrees	17 degrees	Yes
4.1.4.1 Street Front Setbacks	6m	Garage: 11.46m First Floor: 11.0	unaltered unaltered	Yes Yes
4.1.4.2 Side Setbacks and Secondary Street Frontages	Northern boundary: 2.01m (based on proposed wall height of 6.04m)	Garage: 0.9m Ground floor deck: 1.08m First floor: 2.4m & 3.6m	unaltered	Yes
	Southern boundary: 2.18m (based on proposed wall height of 6.56m)	Ground floor deck: 3.3m First floor: 1.6m & 4.75m	unaltered	Yes
	Windows: 3m	Within 3.0m	unaltered	N/A
4.1.4.4 Rear Setbacks	8m	Ground Floor Deck: 23.7m First Floor: 25.7m	unaltered	Yes
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area:	Open space 55% of site area (436.8m <sup>2</sup> )	63% (501.2m <sup>2</sup> )	unaltered	Yes
	Open space above ground 25% of total open space	3.3% (16.9m <sup>2</sup> )	unaltered	Yes

OS3	(109.2m <sup>2</sup> )			
4.1.5.2 Landscaped Area	Landscaped area 35% of open space (152.8m <sup>2</sup> )	77.8% (390.2m <sup>2</sup> )	unaltered	Yes
4.1.5.3 Private Open Space	18m <sup>2</sup>	>18m <sup>2</sup>	unaltered	Yes
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	6.05m (44% of frontage)	unaltered	Yes
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces	unaltered	Yes

#### 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
3.4.3 Maintenance of Views	Yes	Yes
3.7 Stormwater Management	Yes	Yes
3.8 Waste Management	Yes	Yes
3.10 Safety and Security	Yes	Yes
4.1 Residential Development Controls	Yes	Yes
4.1.1 Dwelling Density, Dwelling Size and Subdivision	Yes	Yes
4.1.1.1 Residential Density and Dwelling Size	Yes	Yes
4.1.2 Height of Buildings (Incorporating Wall Height, Number of Storeys & Roof Height)	Yes	Yes
4.1.3 Floor Space Ratio (FSR)	Yes	Yes
4.1.4 Setbacks (front, side and rear) and Building Separation	Yes	Yes
4.1.5 Open Space and Landscaping	Yes	Yes
4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities)	Yes	Yes
4.1.7 First Floor and Roof Additions	Yes	Yes
4.1.8 Development on Sloping Sites	Yes	Yes
4.4.1 Demolition	Yes	Yes
4.4.2 Alterations and Additions	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes

#### **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 2022**

Section 7.12 contributions were levied on the Development Application.

## **CONCLUSION**

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- 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 approval to Modification Application No. Mod2023/0270 for Modification of Development Consent DA2022/1721 granted for Alterations and additions to a dwelling house on land at Lot 42 DP 13750,82 Clontarf Street, SEAFORTH, subject to the conditions printed below:

**A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:**

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

a) Modification Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Site and Roof Plan - DA00, Rev E	21 April 2023	Site Specific Designs
Ground Floor Plan - DA01, Rev E	21 April 2023	Site Specific Designs
First Floor Plan - DA02, Rev E	21 April 2023	Site Specific Designs
Lower Ground Floor (Basement) - DA03, Rev E	21 April 2023	Site Specific Designs
Section Plan (Long Section 1 & Driveway Section 1) - DA04, Rev E	21 April 2023	Site Specific Designs
Elevations (North & West Elevation) - DA05, Rev E	21 April 2023	Site Specific Designs
Elevations (South & East Elevation) - DA06, Rev E	21 April 2023	Site Specific Designs

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Certificate (No.A461887_03)	12 May 2023	Site Specific Designs
External Finishes Schedule Report	22 March 2023	Site Specific Designs
Geotechnical Report (Ref: J4594C)	15 May 2023	White Geotechnical Group

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

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

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

**Signed**



**Stephanie Gelder, Planner**

The application is determined on 15/06/2023, under the delegated authority of:



**Adam Richardson, Manager Development Assessments**