

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2024/0831
<b>Responsible Officer:</b>	Lachlan Rose
<b>Land to be developed (Address):</b>	Lot 3 DP 6210, 50 Macmillan Street SEAFORTH NSW 2092
<b>Proposed Development:</b>	Alterations and additions to a detached garage
<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>Applicant:</b>	Lloyd Anthony Weir
<b>Application Lodged:</b>	12/07/2024
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Alterations and additions
<b>Notified:</b>	29/07/2024 to 12/08/2024
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	2
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval
<b>Estimated Cost of Works:</b>	\$ 74,496.00

### PROPOSED DEVELOPMENT IN DETAIL

The development seeks approval for alterations and additions to a detached garage.

The proposal includes:

- First floor addition to existing garage for storage

### AMENDED PLANS

Following a preliminary assessment of the application and site inspection of the subject site and adjoining properties Council wrote to the applicant on 14/08/2024 outlining concerns that would not allow for Council to support the application in its current form. The concerns related to bulk and scale, setback, FSR calculations and BASIX Certificate. The applicant lodged amended plans on 04/09/2024 to address the concerns raised.

The amended plans incorporate the following changes:

- Increased setback to the side and front boundary
- Reduction in bulk and scale
- Change to material colours of first floor
- BASIX Certificate supplied
- Changes to glazing to include obscure glazing

The proposed amendments will have a reduced environmental impact on the adjoining properties and public open space than the original proposal. Therefore, re-notification was not required in accordance with Northern Beaches Community Participation Plan.

### 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 - 3.4.1 Sunlight Access and Overshadowing

Manly Development Control Plan - 4.1.4 Setbacks (front, side and rear) and Building Separation

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 3 DP 6210 , 50 Macmillan Street SEAFORTH NSW 2092
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the northern side of Macmillan Street and southern side of Frenchs Forest Road.</p> <p>The site is regular in shape with a frontage of 12.19m along Macmillan Street and a depth of 48.195m. The site has a surveyed area of 587.4m<sup>2</sup>.</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a residential dwelling house.</p> <p>The site has a mix of landscaped area including trees, lawn and shrubs. There are no known 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 residential development.</p>

Map:



## SITE HISTORY

A search of Council's records has revealed that there are no recent or relevant applications for this site.

The land has been used for residential purposes for an extended period of time.

## 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 Matters for Consideration	Comments
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Manly Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)	<p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clauses 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. Additional information was requested in relation to architectural plans and BASIX Certificate.</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>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 made in accordance with the EPA Act or EPA Regs	See discussion on "Notification & Submissions Received" in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

#### EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

#### BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

#### NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 29/07/2024 to 12/08/2024 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 2 submission/s from:

Name:	Address:
Mr Julien Charles Edouard Calvet	48 Macmillan Street SEAFORTH NSW 2092
Mrs Christina Louise Rooney	52 Macmillan Street SEAFORTH NSW 2092

The following issues were raised in the submissions:

- Use for a secondary dwelling
- Window orientation
- Building height and bulk
- Drainage concerns

- Sunlight access and overshadowing

The above issues are addressed as follows:

- **Use for a secondary dwelling**

The submissions raised concerns that the proposed storage area may be used for a secondary dwelling.

Comment:

A condition of consent in this report will apply which will not permit the use of the storage area as a secondary dwelling. See condition **No Approval for Secondary Dwelling** stating:

*No approval is granted or implied under this Development Consent for the use of any part of the dwelling house for the purpose of a secondary dwelling or separate occupancy. Built in cooking facilities are not permitted to be installed, other than those shown in the designated kitchen area.*

*Reason: To ensure compliance with the terms of this consent.*

- **Window orientation**

The submissions raised concerns that the window orientation will overlook into the adjacent property and into the pool, garden area, house and bedrooms, impacting privacy.

Comment:

It has been determined that the proposed windows are of low scale and located at a height of 1.4-1.6m front the first floor level. Additionally, the proposed space is for storage and will not be a high trafficable and habitable area, not resulting in unreasonable privacy impacts. In summary, the proposal complies with the requirements of control 3.4.2 Privacy and Security and does not warrant a reason for refusal.

- **Building height and bulk**

The submissions raised concerns that the proposed storage area is of an excessive height and bulk.

Comment:

The proposed plans have been amended to reduce the bulk and scale by providing an alternate material colour to the first floor storage area and increasing the side setback to the southern and western storage setback. The building height of the proposal has been reduced from 5.35m to 5.2m. Therefore, the proposed amendments have resulted in suitable changes to reduce the bulk and scale to the streetfront, with design amendments to commensurate with the built form of Macmillan Street.

- **Drainage concerns**

The submissions raised concerns with the proposed drainage.

Comment:

Councils Development Engineer has reviewed the application and determined that the proposed stormwater works area satisfactory subject to conditions. See subsection 'referrals' for greater detail on the development engineers referral. In summary, the drainage works are considered acceptable as per the development engineers referral response.

- **Sunlight assess and overshadowing**

The submissions raised concerns that the storage are will lead to loss of light and sun to the garden and pool area.

Comment:

The proposal includes shadow diagrams which indicate minor additional overshadowing between 12-3pm to the adjacent property. This submission has been addressed under Control 3.4.1 Sunlight Access and Overshadowing. In summary, the additional overshadowing is considered acceptable in this circumstance.

## REFERRALS

Internal Referral Body	Comments
NECC (Development Engineering)	The proposed development is in Region 3. A geotechnical report has been provided. Vehicle crossing construction is not proposed. Development engineering raises no objections to the proposed development, subject to conditions.

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 (Sustainable Buildings) 2022

A BASIX certificate has been submitted with the application (see Certificate No. A1762922 dated 04 September 2024).

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.

##### 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	Proposed	% Variation	Complies
Height of Buildings:	8.5m	5.2m	N/A	Yes

Floor Space Ratio	FSR: 0.45:1 (264.33sqm)	FSR: 0.353:1 (207.42sqm)	N/A	Yes
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Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	Yes
4.4 Floor space ratio	Yes
6.2 Earthworks	Yes
6.4 Stormwater management	Yes
6.8 Landslide risk	Yes
6.12 Essential services	Yes

**Manly Development Control Plan**

Built Form Controls

Built Form Controls - Site Area: 587.4sqm	Requirement	Proposed	% Variation*	Complies
4.1.2.1 Wall Height	E: 6.5m (based on gradient 0)	4.9m	N/A	Yes
	W: 6.5m (based on gradient 0)	4.8m	N/A	Yes
4.1.2.2 Number of Storeys	2	2	N/A	Yes
4.1.2.3 Roof Height	Height: 2.5m	0.2m	N/A	Yes
	Pitch: maximum 35 degrees	4 degrees	N/A	Yes
4.1.4.1 Street Front Setbacks	Prevailing building line / 6m	1.35m (garage) 1.6m (storage)	N/A	No (no change)
4.1.4.2 Side Setbacks and Secondary Street Frontages	E:1.63m W:1.6m (storage area) 0.76m (garage) (based on wall height)	E: 5m W:1.7m (storage) 1.35m (garage)	N/A	Yes Yes
	Windows: 3m	1 window within 1.7m	43% (1.3m)	No
	Secondary street frontage	No change	N/A	N/A
4.1.5.1 Minimum Residential Total Open Space Requirements Residential Open Space Area: OS3	Open space 55% of site area	No change	N/A	N/A
	Open space above ground 25% of total open space	No change	N/A	N/A
4.1.5.2 Landscaped Area	Landscaped area 35% of open space	No change	N/A	N/A
	3 native trees	No change	N/A	N/A
4.1.5.3 Private Open Space	18sqm per dwelling	No change	N/A	N/A
4.1.6.1 Parking Design and the Location of Garages, Carports or Hardstand Areas	Maximum 50% of frontage up to maximum 6.2m	5.2m (facing side boundary)	N/A	N/A (no change)
Schedule 3 Parking and Access	Dwelling 2 spaces	2 spaces	N/A	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
3.3.1 Landscaping Design	Yes	Yes
3.3.2 Preservation of Trees or Bushland Vegetation	Yes	Yes
3.3.3 Footpath Tree Planting	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
3.4.4 Other Nuisance (Odour, Fumes etc.)	Yes	Yes
3.5 Sustainability - (Greenhouse Energy Efficiency, Thermal Performance, and Water Sensitive Urban Design)	Yes	Yes
3.6 Accessibility	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives		
3.7 Stormwater Management	Yes	Yes		
3.8 Waste Management	Yes	Yes		
3.9 Mechanical Plant Equipment	Yes	Yes		
3.10 Safety and Security	Yes	Yes		
4.1 Residential Development Controls	Yes	Yes		
4.1.2 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	No	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 </tr <tr> <td>4.4.5 Earthworks (Excavation and Filling)</td> <td>Yes</td> <td>Yes</td> </tr>	4.4.5 Earthworks (Excavation and Filling)	Yes	Yes
4.4.5 Earthworks (Excavation and Filling)	Yes	Yes		

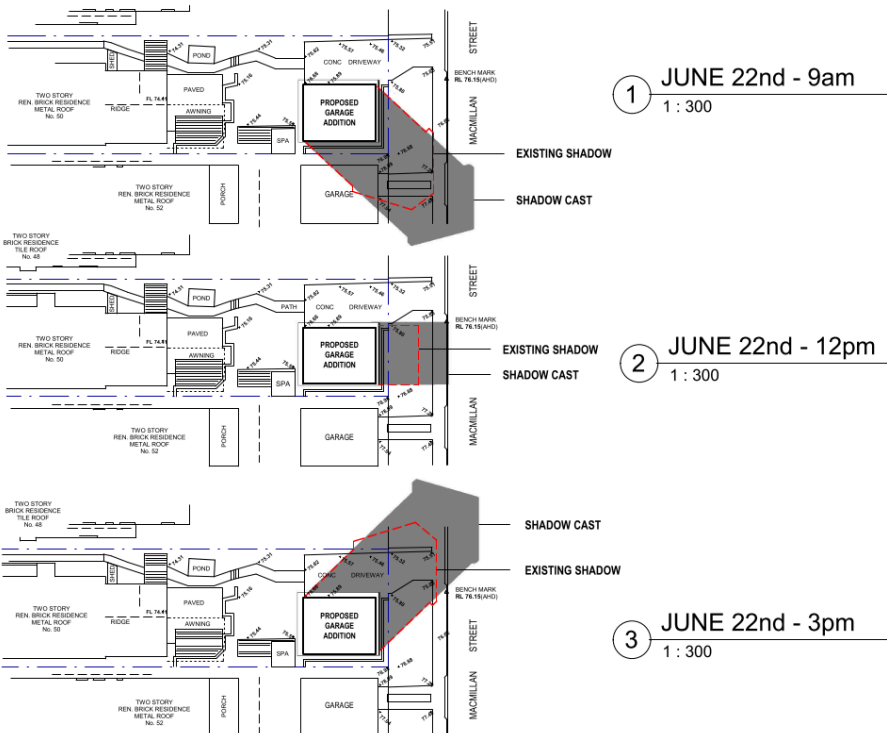
Detailed Assessment

**3.4.1 Sunlight Access and Overshadowing**

A submission from the adjoining property has raised concerns about the loss of sunlight to the garden and pool area. As per the discussion below, the proposal will comply with the requirements of the control and not result in unreasonable overshadowing impacts to adjacent properties. Therefore, this submission is not a reason for refusal.

Clause **3.4.1.1 Overshadowing Adjoining Open Space** stipulates that new development must not eliminate more than one third of the existing sunlight accessing the private open space of adjacent properties from 9am to 3pm at the winter solstice (21 June).

The submitted shadow diagrams (see figure 1 below) depict that the proposal will result in a net increase in solar access to the private open space of 52 and 48 Macmillan Street. The additional overshadowing is to the rear pool area of 48 Macmillan Street with impacts at 12pm to 3pm. However, the proposal will result in no additional overshadowing impacts to 18 Condamine Street from 9am to 12pm. The overshadowing impacts are prevalent to 52 Macmillan from 9m- 12pm, with no additional impacts after 12pm. Notwithstanding the above overshadowing impacts, the proposal will not eliminate more than one third of the existing sunlight access to the private open space of adjacent properties from 9am to 3pm and is considered satisfactory to the requirements of this control.



**Figure 1: Shadow diagrams**

**3.4.1.2 Maintaining Solar Access into Living Rooms of Adjacent Properties**

The proposed development is consistent with the provisions of this control which require current levels of sunlight to living areas to be

maintained for at least 4 hours (north to south orientation) between 9am and 3pm in midwinter. The proposal will comply with the requirements of this section of the control.

#### 4.1.4 Setbacks (front, side and rear) and Building Separation

##### Description of non-compliance

Control 4.1.4.1 **Street Front setbacks** of the Manly DCP requires development be setback to the prevailing building line or if no prevailing building line, be located at 6m from the property boundary. The existing garages setback 1.35m from the front boundary and this represents a 77% (4.65m) variation to the numeric control. The storage area is setback at 1.6m from the front boundary and this represents a 73% (4.4m) variation to the numeric control.

The proposed carport is in line with the prevailing building line of neighbouring properties. The proposal details an existing garage and proposed storage area within the front setback area, whereby multiple adjoining properties include carports, hard stand spaces and garages located at a nil/ minimal front setback.

Control 4.1.4.2 **Side Setbacks and Secondary Street Frontages** stipulates that the setbacks between any part of a building and the side boundary must not be less than one third of the wall height. The proposed plans have been amended to provide compliant setbacks to the western and eastern side setback requirements.

This control also stipulates that any additional windows must be setback 3.0 metres from boundaries. The proposal includes a high sill window that is to be of frosted glassing to the western elevation of the storage area. The window is located at 1.7m, presenting a variation of 43% (1.3m). It should be noted that the window is located to the storage area which is classified as a low use area where it will not be highly occupied.

##### 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 maintain and enhance the existing streetscape including the desired spatial proportions of the street, the street edge and the landscape character of the street.*

##### Comment:

As mentioned above, the proposal complies with the existing prevailing building line to Macmillan Street and is considered to maintain the built form to the streetscape. There are multiple built structures such as garages and carports and some storage areas above along the northern side of Macmillan Street. The plans have been amended to include a materials schedule, whereby the design to the first floor storage area includes a different colour cladding from the garage. This helps to reduce the building bulk and scale enhance the design to the streetscape. There are no proposed changes to the landscaping along the streetfront. Therefore, the proposal suitably retains the spatial portions and landscape character of the street.

*Objective 2) To ensure and enhance local amenity by:*

- *providing privacy;*
- *providing equitable access to light, sunshine and air movement; and*
- *facilitating view sharing and maintaining adequate space between buildings to limit impacts on views and vistas from private and public spaces.*
- *defining and adding character to the streetscape including the provision of adequate space between buildings to create a rhythm or pattern of spaces; and*
- *facilitating safe and adequate traffic conditions including levels of visibility around corner lots at the street intersection.*

##### Comment:

The garage and storage area is adequately setback from the side boundaries and will not result in unnecessary privacy impacts. There are multiple built structures within the front setbacks of adjoining properties along Macmillan Street and the storage area will not impact the character of the streetscape. The window on the western elevation within 3m setback will not increase the privacy impacts as the windows are of high sill design and are located to a storage area. Additionally, the windows to the western and eastern side elevations are to be of frosted glazing. The proposed development does not cause unreasonable overshadowing, thus allowing for the equitable access to light, sunshine and air movement. The proposed development does not cause unreasonable view sharing impacts between properties to public and private places. As detailed above, the surrounding dwellings have built structures within the front setbacks of the allotments and the proposal will not impact upon the existing character of Macmillan Street. The existing vehicle maneuvering will remain and the traffic conditions will not be impacted.

*Objective 3) To promote flexibility in the siting of buildings.*

##### Comment:

Notwithstanding the non-compliances to the abovementioned controls, there remains adequate spatial separation to ensure there is access and flexibility in the siting of the building.

*Objective 4) To enhance and maintain natural features by:*

- *accommodating planting, including deep soil zones, vegetation consolidated across sites, native vegetation and native trees;*



- ensuring the nature of development does not unduly detract from the context of the site and particularly in relation to the nature of any adjoining Open Space lands and National Parks; and
- ensuring the provisions of State Environmental Planning Policy No 19 - Urban Bushland are satisfied.

Comment:

The proposal will not result in any changes to the existing landscaping of the subject site and therefore, will comply with the above objective.

*Objective 5) To assist in appropriate bush fire asset protection zones.*

Comment:

The site is not classified as bush fire prone land

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of MDCP and the objectives specified in section 1.3(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

### **POLICY CONTROLS**

#### **Northern Beaches Section 7.12 Contributions Plan 2022**

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of this application.

### **CONCLUSION**

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 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 Development Consent to DA2024/0831 for Alterations and additions to a detached garage on land at Lot 3 DP 6210, 50 Macmillan Street, SEAFORTH, subject to the conditions printed below:

### **Terms and Reasons for Conditions**

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the

conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

## GENERAL CONDITIONS

### 1. Approved Plans and Supporting Documentation

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
01	B	SITE PLAN	Draft & Design	15/08/2024
03	B	FLOOR PLANS	Draft & Design	15/08/2024
06	B	ELEVATIONS	Draft & Design	15/08/2024
07	B	SECTIONS	Draft & Design	15/08/2024
08	B	SCHEDULE OF FINISHES	Draft & Design	29/08/2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BASIX Certificate (A1762922)	-	LLOYD ANTHONY WEIR	4 September 2024
PRELIMINARY GEOTECHNICAL ASSESSMENT	-	White Geotechnical Group	11th March, 2024
Stormwater Plan	A	Draft & Design	07/04/2024
WASTE MANAGEMENT PLAN	-	APPLICANT	19/06/2024

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

### 2. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral Response	19/07/2024

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

### 3. No Approval for Secondary Dwelling

No approval is granted or implied under this Development Consent for the use of any part of the dwelling house for the purpose of a secondary dwelling or separate occupancy. Built in cooking facilities are not permitted to be installed, other than those shown in the designated kitchen area.

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

### 4. 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 Certifier 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 Certifier 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 Certifier 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.

## 5. General Requirements

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:
- o 7.00 am to 5.00 pm inclusive Monday to Friday,
  - o 8.00 am to 1.00 pm inclusive on Saturday,
  - o No work on Sundays and Public Holidays.
- Demolition and excavation works are restricted to:
- o 8.00 am to 5.00 pm Monday to Friday only.
- (Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).
- (b) Construction certificate plans are to be in accordance with all finished levels identified on approved plans. Notes attached to plans indicating tolerances to levels are not approved.
  - (c) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
  - (d) At all times after the submission of the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of an Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
  - (e) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
  - (f) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
  - (g) Prior to the release of the Construction Certificate, payment of the following is required:
    - i) Long Service Levy - Payment should be made to Service NSW (online or in person) or alternatively to Northern Beaches Council in person at a Customer Service Centre. Payment is not required where the value of the works is less than \$250,000. The Long Service Levy is calculated on 0.25% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
    - ii) Section 7.11 or Section 7.12 Contributions Plan – Payment must be made to Northern Beaches Council. Where the subject land to which the development is proposed is subject to either a Section 7.11 or 7.12 Contributions Plan, any contribution to which the development is liable under the respective plan that applies is to be paid to Council. The outstanding contribution will be indexed at time of payment in accordance with the relevant Contributions Plan.
    - iii) Housing and Productivity Contribution - Payment must be made on the NSW Planning Portal for development to which this contribution applies. The amount payable is subject to indexation at the time of payment.
  - (h) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
  - (i) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
  - (j) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.

- (k) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.), on the land to be developed, or within adjoining properties, shall be removed or damaged during excavation or construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (l) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (m) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (n) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (o) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
- (ii) Swimming Pools Amendment Act 2009
- (iii) Swimming Pools Regulation 2018
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
- (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
- (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

## FEES / CHARGES / CONTRIBUTIONS

### 6. Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifier prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)).

Reason: To ensure adequate protection of Council's infrastructure.

## BUILDING WORK – BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

### 7. Stormwater Disposal from Low Level Property

The applicant is to demonstrate how stormwater from the new development within this consent shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy in particular Section 5.5 Stormwater Drainage from Low Level Properties. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with Northern Beaches Council's policy by an appropriately qualified Civil Engineer are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from the development.

8. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans. Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the construction certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

9. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, shall be provided in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of any Construction Certificate.

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

10. **Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to the Principal Certifier:

1. Council's relevant development control plan,
2. The guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book) (as amended from time to time), and
3. The 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust) (as amended from time to time).

Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and the site is sufficiently stabilised with vegetation.

Reason: To ensure no substance other than rainwater enters the stormwater system and waterways.

11. **Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

12. **External Finishes to Roof**

The external finish to the roof shall have a Solar Absorptance (SA) greater than 0.43 in accordance with the requirements of the BASIX Certificate to minimise solar reflections to neighbouring properties. Any roof with a reflective finish is not permitted.

Green roofs and areas where solar panels (PV) are installed are excluded from conforming to the SA range.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the construction certificate.

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

13. **Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifier demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- o "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- o Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

**DURING BUILDING WORK**

14. **Road Reserve**

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

15. **Geotechnical Requirements**

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

16. **Survey Certificate**

A survey certificate prepared by a Registered Surveyor is to be provided demonstrating all perimeter walls columns and or other structural elements, floor levels and the finished roof/ridge height are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifier when the external structure of the building is complete.

Reason: To demonstrate the proposal complies with the approved plans.

17. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifier.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

**BEFORE ISSUE OF THE OCCUPATION CERTIFICATE**

18. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

**ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES**

19. **Geotechnical Recommendations**

Any ongoing recommendations of the risk assessment required to manage the hazards identified in the Geotechnical Report referenced in Condition 1 of this consent are to be maintained and adhered to for the life of the development.

Reason: To ensure geotechnical risk is mitigated appropriately.

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

**Signed**



**Lachlan Rose, Planner**

The application is determined on 16/09/2024, under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**