

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|                            |             |
|----------------------------|-------------|
| <b>Application Number:</b> | DA2021/1054 |
|----------------------------|-------------|

|   |   |
|---|---|
| <b>Responsible Officer:</b>               | Thomas Burns  |
| <b>Land to be developed (Address):</b>    | Lot 16 DP 13915, 54 Gardere Avenue CURL CURL NSW 2096             |
| <b>Proposed Development:</b>              | Alterations and additions to a dwelling house to include a garage |
| <b>Zoning:</b>                            | Warringah LEP2011 - 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>                             | Alexander Thomas Bryden<br>Melanie Rachel Bryden                  |
| <b>Applicant:</b>                         | Alexander Thomas Bryden   |

|                                  |   |
|----------------------------------|---|
| <b>Application Lodged:</b>       | 08/07/2021                              |
| <b>Integrated Development:</b>   | No                                      |
| <b>Designated Development:</b>   | No                                      |
| <b>State Reporting Category:</b> | Residential - Alterations and additions |
| <b>Notified:</b>                 | 16/07/2021 to 30/07/2021                |
| <b>Advertised:</b>               | Not Advertised                          |
| <b>Submissions Received:</b>     | 0                                       |
| <b>Clause 4.6 Variation:</b>     | Nil                                     |
| <b>Recommendation:</b>           | Approval                                |

|                                 |              |
|---------------------------------|--------------|
| <b>Estimated Cost of Works:</b> | \$ 44,000.00 |
|---------------------------------|--------------|

### PROPOSED DEVELOPMENT IN DETAIL

The applicant seeks development consent for alterations and additions to a dwelling house to include the following:

- Construction of new detached double garage and store over existing concrete hardstand.
- Construction of a new vehicular crossing from Cooksey Avenue.

### 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 Development Control Plan - B3 Side Boundary Envelope

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

## SITE DESCRIPTION

|                                   |  |
|-----------------------------------|--|
| <b>Property Description:</b>      | Lot 16 DP 13915 , 54 Gardere Avenue CURL CURL NSW 2096   |
| <b>Detailed Site Description:</b> | <p>The subject site consists of one (1) allotment located on the corner of Gardere Avenue (primary frontage) and Cooksey Avenue (secondary frontage), Curl Curl. The site does not currently benefit from vehicular access or contain off-street parking. Pedestrian access is provided from both Gardere Avenue and Cooksey Avenue.</p> <p>The site is regular in shape with a frontage of 9.755m along Gardere Avenue and a frontage of 31.395m along Cooksey Avenue. The site has a surveyed area of 467.2sqm.</p> <p>The site is located within the R2 Low Density Residential zone pursuant to Warringah LEP 2011 and accommodates a single storey dwelling house. The front component of the dwelling contains the original brick house with a tiled hipped roof, whilst the rear component contains a new addition with timber clad façade and a metal skillion roof form.</p> <p>The site is devoid of significant landscaping and contains lawn areas and two small trees/shrubs within the primary front setback area fronting Gardere Avenue.</p> |

The site experiences a fall of approximately 2.1m that slopes away from the south-east towards the north-west, representing an approximate slope of 5.6%.

### Description of Surrounding Development

The surrounding built environment is characterised by detached low density residential development, ranging between 1-3 storeys in height. Surrounding development is representative of both older housing stock and modern development. The site is located approximately 25m to the east of a Public Reserve.

Map:



### SITE HISTORY

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

- Development Application DA2015/0368 for alterations and additions to an existing dwelling house withdrawn by the applicant.
- Complying Development Certificate CDC2019/0259 for alterations and additions to an existing dwelling house including a detached garage approved by a Private Certifier on 18 April 2019.
- Partial Occupation Certificate IOC2020/0075 for the works approved under CDC2019/0259, excluding a deck/balcony and the detached garage, approved by a Private Certifier on 10 June 2020.

### APPLICATION HISTORY

The Planning Assessment Officer examined the site and its immediate surrounds on 2 August 2021.

### 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   | Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.  |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan   | Warringah Development Control Plan 2011 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 2000 (EP&A Regulation 2000)  | <p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 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 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> |
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality | <p>(i) <b>Environmental Impact</b><br/>The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan 2011 section in this report.</p> <p>(ii) <b>Social Impact</b><br/>The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b><br/>The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>   |
| Section 4.15 (1) (c) – the suitability of the site for the development   | The site is considered suitable for the proposed development.   |

| Section 4.15 Matters for Consideration'  | Comments  |
|--|---|
| Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs | No submissions were received.   |
| 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 16/07/2021 to 30/07/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition of the application Council received no submissions.

## REFERRALS

| Internal Referral Body         | Comments  |
|--------------------------------|---|
| Landscape Officer              | <p>The application seeks consent for Construction of new detached double garage and store over existing concrete hardstand, construction of a new vehicular crossing from Cooksey Avenue to accommodate 2 cars and construction of associated boundary fencing and landscaping.</p> <p>The application is assessed by Landscape Referral against Warringah Local Environmental Plan 2011 and Warringah Development Control Plan 2011, including but not limited to the following clauses:</p> <ul style="list-style-type: none"> <li>• D1 Landscaped Open Space and Bushland Setting</li> <li>• E1 Preservation of Trees or Bushland Vegetation,</li> </ul> <p>The plans indicate that no significant landscape features are affected by the proposed works.</p> <p>No objections are raised to approval with regard to landscape issues subject to conditions.</p> |
| NECC (Development Engineering) | Development Engineering has no objection to the application subject to the following conditions of consent.   |

| External Referral Body | Comments  |
|------------------------|---|
| Ausgrid: (SEPP Infra.) | The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is |



| External Referral Body | Comments   |
|------------------------|--|
|                        | assumed that no objections are raised and no conditions are recommended. |

## **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\***

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

## **State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)**

### **SEPP 55 - Remediation of Land**

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

### **SEPP (Infrastructure) 2007**

#### Ausgrid

Clause 45 of the SEPP 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. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

### **SEPP (Coastal Management) 2018**

The site is identified within the Coastal Environment Area pursuant to SEPP (Coastal Management) 2018. Accordingly, the proposal is considered against Clauses 14 and 15 of the Policy as follows:

### **13 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.*
- (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 subclause (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:**

The site is visually separated from the foreshore and Curl Curl Lagoon, such that the proposal will not detract from the visual qualities of the coastal area, the use of the surf zone or preclude access to or along the foreshore. Furthermore, given the significant separation, the works will not impact upon the ecological values of the coastal area. It is further noted that the site is not mapped as an area known for containing Aboriginal items and as such, the proposal will not impact upon Aboriginal cultural heritage, practices and places.

For the reasons outlined above, Council is satisfied that the development is designed, sited and will be managed to avoid an adverse impact upon the matters referred to in Clause 14.

### **15 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:

Given the scale of the development is significant distance from the foreshore and Curl Curl Lagoon, Council is satisfied that the proposal will not increase the risk of coastal hazards within the locality.

Concluding Remarks

Based on the above assessment, it is concluded that the proposed development aligns with the relevant provisions within SEPP (Coastal Management) 2018.

**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?  | Yes |

Principal Development Standards

| Standard             | Requirement | Proposed | % Variation | Complies |
|----------------------|-------------|----------|-------------|----------|
| Height of Buildings: | 8.5m        | 6.18m    | -           | Yes      |

Note: The maximum height is taken from RL47.25.

Compliance Assessment

| Clause                          | Compliance with Requirements |
|---------------------------------|------------------------------|
| 4.3 Height of buildings         | Yes                          |
| 6.2 Earthworks                  | Yes                          |
| 6.4 Development on sloping land | Yes                          |

**Warringah Development Control Plan**

Built Form Controls

| Built Form Control         | Requirement                               | Proposed         | % Variation* | Complies |
|----------------------------|---|------------------|--------------|----------|
| B1 Wall height             | 7.2m                                      | 5.86m            | -            | Yes      |
| B3 Side Boundary Envelope  | 5m then projected at 45 degrees (south)   | within envelope  | -            | Yes      |
|                            | 5m then projected at 45 degrees (west)    | outside envelope | 2.32%        | No       |
| B5 Side Boundary Setbacks  | 0.9m (south)                              | 0.92m            | -            | Yes      |
|                            | 0.9m (west)                               | 1.02m            | -            | Yes      |
| B7 Front Boundary Setbacks | Primary Frontage (Gardere Avenue): 6.5m   | 28.3m            | -            | Yes      |
|                            | Secondary Frontage (Cooksey Avenue): 3.5m | 6.09m            | -            | Yes      |
| D1 Landscaped Open Space   | 40% (186.89sqm)                           | 31.49%           | 21.29%       | No       |



|                            |  |            |  |  |
|----------------------------|--|------------|--|--|
| (LOS) and Bushland Setting |  | (147.1sqm) |  |  |
|----------------------------|--|------------|--|--|

**\*Notes:**

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

2. The site is a corner allotment with two frontages. As such, there is no 'rear setback'. Furthermore, the building envelope and side setback controls are applied from the frontages that adjoin residential development (i.e. southern and western boundaries).

Compliance Assessment

| Clause  | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| A.5 Objectives                                  | Yes                          | Yes                         |
| B1 Wall Heights                                 | Yes                          | Yes                         |
| B3 Side Boundary Envelope                       | No                           | Yes                         |
| B5 Side Boundary Setbacks                       | Yes                          | Yes                         |
| B7 Front Boundary Setbacks                      | Yes                          | Yes                         |
| C2 Traffic, Access and Safety                   | Yes                          | Yes                         |
| C3 Parking Facilities                           | Yes                          | Yes                         |
| 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                           | Yes                         |
| D2 Private Open Space                           | Yes                          | Yes                         |
| D3 Noise  | Yes                          | Yes                         |
| D6 Access to Sunlight                           | Yes                          | Yes                         |
| D7 Views  | Yes                          | Yes                         |
| 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                         |
| D20 Safety and Security                         | Yes                          | Yes                         |
| D21 Provision and Location of Utility Services  | Yes                          | Yes                         |
| D22 Conservation of Energy and Water            | Yes                          | Yes                         |
| E1 Preservation of Trees or Bushland Vegetation | Yes                          | Yes                         |
| E6 Retaining unique environmental features      | Yes                          | Yes                         |
| E10 Landslip Risk                               | Yes                          | Yes                         |

## Detailed Assessment

### **B3 Side Boundary Envelope**

#### Description of non-compliance

The control requires development to remain within a building envelope determined by projecting 45 degree plans from 4m above existing ground level at side boundaries. A portion of the western elevation of the garage/storage structure protrudes outside of the prescribed building envelope for a horizontal length of 640mm to a maximum height of 140mm. As such, the proposal fails to comply with the control.

#### Merit consideration

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

- *To ensure that development does not become visually dominant by virtue of its height and bulk.*

#### Comment:

The roofline of the proposed detached garage/storage structure measures at 6.18m above natural ground level, which is significantly larger than established detached parking structures or outbuildings within the locality. Furthermore, the western elevation consists of a two storey un-articulated wall located in close proximity to western boundary. As such, the development will be visually imposing when viewed from the adjacent private open space at 56 Gardere Avenue (western adjoining site). To minimise the visual impacts and allow for a more balanced outcome for the streetscape, a condition has been included with this consent requiring the roofline of the structure to be lowered to a maximum height of RL47.1, which equates to a 150mm reduction in building height. It is noted that the amended design will be compliant with the building envelope control. Subject to compliance with this condition, the height and bulk of the structure will be consistent with scale of development anticipated for the locality.

- *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*

#### Comment:

The western elevation does not contain windows and therefore, the structure will not represent an unreasonable privacy impact. Furthermore, the proposal will allow for more than 50% of adjacent private open space to receive at least 3 hours of sunlight on June 21 (winter solstice), which complies with the Warringah DCP 2011 solar access provision.

- *To ensure that development responds to the topography of the site.*

#### Comment:

The proposal does not result significant disturbance to the site topography.

## Concluding Remarks

As discussed above, the proposal will comply with the building envelope provision, subject to compliance with the conditions of consent.

## **D1 Landscaped Open Space and Bushland Setting**

### Description of non-compliance

The control requires at least 40% (186.89sqm) of the site to comprise landscaped open space (LOS). To measure the area of LOS the following applies:

- 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.*

The proposed LOS equates to 31.49% (147.1sqm), which fails to satisfy the numeric requirement. The existing LOS equates to 41.14% (192.2%), thus the proposal results in a 9.65% (45.1sqm) reduction in LOS. It is important to note that the proposed LOS is consistent with the landscaping dimensions approved under Complying Development Certificate CDC2019/0259.

### 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:

There are sufficient proportions of landscaping located within the primary and secondary frontages to enable further planting to maintain and enhance the streetscape.

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

#### Comment:

The proposed development does not necessitate the removal of vegetation or important topographical features.

- *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:

As noted above, there are sufficient dimensions of landscaping located within the primary and secondary frontages to enable further planting to maintain and enhance the streetscape. A condition has been included in this consent requiring the roofline of the detached garage/structure to be lowered, which will minimise the bulk and scale of the development.

- *To enhance privacy between buildings.*

Comment:

As discussed earlier within this report, the proposal does not represent unreasonable privacy impacts.

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

Comment:

There are sufficient areas of outdoor open space to meet the needs of the occupants.

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

Comment:

There is adequate outdoor open space to service functions, including cloths drying.

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

Comment:

The proposed areas of LOS are sufficient and will assist in water infiltration, thereby decreasing runoff. Furthermore, conditions included with this consent will ensure that stormwater generated from the development is appropriately managed.

Concluding Remarks

Having regard to the above assessment, it is concluded that the objectives of the control are achieved. Therefore, the application is supported on merit, subject to conditions.

**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 2021**

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

**CONCLUSION**

The site has been inspected and the application assessed having regard to all documentation

submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- 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, 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 DA2021/1054 for Alterations and additions to a dwelling house to include a garage on land at Lot 16 DP 13915, 54 Gardere Avenue, CURL CURL, subject to the conditions printed below:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

#### 1. Approved Plans and Supporting Documentation

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

##### a) Approved Plans

| Architectural Plans - Endorsed with Council's stamp |             |                          |
|---|-------------|--------------------------|
| Drawing No.   | Dated       | Prepared By              |
| DA001 - Site Plan                                   | 5 July 2021 | Alex Bryden Architecture |
| DA100 - Ground Floor Plan                           | 5 July 2021 | Alex Bryden Architecture |
| DA101 - First Floor Plan                            | 5 July 2021 | Alex Bryden Architecture |
| DA102 - Roof Plan                                   | 5 July 2021 | Alex Bryden Architecture |
| DA200 - Elevations 1                                | 5 July 2021 | Alex Bryden Architecture |

|                      |             |                          |
|----------------------|-------------|--------------------------|
| DA201 - Elevations 2 | 5 July 2021 | Alex Bryden Architecture |
| DA300 - Sections 1   | 5 July 2021 | Alex Bryden Architecture |

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

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

| <b>Waste Management Plan</b> |              |                          |
|------------------------------|--------------|--------------------------|
| <b>Drawing No/Title.</b>     | <b>Dated</b> | <b>Prepared By</b>       |
| Waste Management Plan        | 24 June 2021 | Alex Bryden Architecture |

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

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

## 2. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - A. the name of the owner-builder, and
    - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in



progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

### 3. **General Requirements**

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works

commence.

- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

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

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

- (i) Swimming Pools Act 1992

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

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

## FEES / CHARGES / CONTRIBUTIONS

### 4. **Security Bond**

A bond (determined from cost of works) of \$1,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

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

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

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

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

## CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

### 5. **Stormwater Disposal**

The applicant is to demonstrate how stormwater from the new development within this consent is disposed of to an existing approved system or in accordance with Northern Beaches Council's

#### **WATER MANAGEMENT FOR DEVELOPMENT POLICY.**

Details by an appropriately qualified and practicing Civil Engineer demonstrating that the existing approved stormwater system can accommodate the additional flows, or compliance with the Council's specification are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

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

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

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

- The roofline of the detached garage/storage structure must be lowered to a maximum height of RL47.1.

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

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

#### **7. Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

#### **8. 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 Certifying Authority prior to the issue of the Construction Certificate.

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

#### **9. External Finishes to Roof**

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

Details demonstrating compliance are to be submitted to the Certifying Authority 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.

#### **10. 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 Certifying Authority

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:

- “Tap in” details - see <http://www.sydneywater.com.au/tapin>
- 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.

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

### 11. Tree and Vegetation Protection

- a) Existing trees and vegetation shall be retained and protected including:
  - i) all trees and vegetation within the site, excluding exempt trees and vegetation under the relevant planning instruments of legislation,
  - ii) all trees and vegetation located on adjoining properties,
  - iii) all road reserve trees and vegetation.
- b) Tree protection shall be undertaken as follows:
  - i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites including the provision of temporary fencing to protect existing trees within 5 metres of development,
  - ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,
  - iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,
  - iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
  - v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,
  - vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
  - vii) should either or all of v), vi) and vii) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
  - viii) any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,
  - ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone

- of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,
- xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

The Certifying Authority must ensure that:

- c) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites do not occur within the tree protection zone of any tree and any temporary access to or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained on the site during the construction is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking or removal of any tree(s) is prohibited.

Reason: Tree and vegetation protection.

## 12. **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.

## 13. **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 Certifying Authority.

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

## 14. **Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). 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 protect the surrounding environment from the effects of sedimentation and erosion from the site.



15. **Vehicle Crossings**

The Applicant is to construct one vehicle crossing 3 metres wide in accordance with Northern Beaches Council Drawing No A4-3330/3 NL and the driveway levels application approval. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property.

16. **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 Certifying Authority.

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

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

17. **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 Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

18. **Reinstatement of Kerb**

The Applicant shall reinstate all redundant laybacks and vehicular crossings to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the final Occupation Certificate.

Reason: To facilitate the preservation of on street parking spaces.

19. **Removal of All Temporary Structures/Material and Construction Rubbish**

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure bushland management.

20. **Waste Management Confirmation**

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted

to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

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

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

21. **Garage and Storage Area not to be used for Separate Occupancy**

The approved garage and storage structure is not permitted to be used, or adapted to be used, for separate occupancy.

Reason: Nothing in this consent authorises the use of the site or any onsite structures as detailed on the approved plans for separate habitation.

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

**Signed**



**Thomas Burns, Planner**

The application is determined on 05/08/2021, under the delegated authority of:



**Rodney Piggott, Manager Development Assessments**