

21 May 2021

Northern Beaches Council
PO Box 82
MANLY NSW 1655

Dear Sir/Madam,

SECTION 4.55(1a) APPLICATION

Premises:	Lot 29 in DP 12072, No. 31 Robert Street, Freshwater
Amendments:	Amend Plans – Retain Existing Garage Structure
Development Application:	DA2017/1150
Date of Determination:	22 December 2017 (modified 27/03/2018)

INTRODUCTION

On behalf of Mr & Mrs McDonald I seek Council consent pursuant to Section 4.55(1a) of the *Environmental Planning & Assessment Act* 1979 to amend the approved plans specified in Development Consent No. DA2017/1150 relating to the construction of dwelling alterations and additions.

BACKGROUND

Development Consent for the construction of additions to an existing dwelling (DA2017/1150) on the subject site was approved by Council. This application included the demolition of the existing detached garage structure.

This application seeks to amend the approved plans to retain the existing detached garage structure.

This Section 4.55(1a) application carries out a detailed assessment against the current relevant provisions of the Warringah LEP and DCP. It is considered that the amendments are consistent with the relevant planning controls and is worthy of the approval.

PROPOSED MODIFICATION

This proposal seeks to amend the approval as detailed in the plans prepared by Action Plans, Revision A and dated 13.05.21. The plans and this application merely seek to retain the existing detached garage structure which was identified and approved for demolition.

LEGISLATION

Section 4.55(1a) of the Act states:

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) it is satisfied that the proposed modification is of minimal environmental impact, and

Comment: The Consent granted approval for the construction of alterations and additions to an existing dwelling with the existing detached garage structure to be demolished. This does not result in any detrimental environmental impact, as there is no net increase in hard surface area and no additional impact on the adjoining properties or the character of the locality.

(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and

Comment: The Consent granted approval for the construction of alterations and additions to an existing dwelling with the existing detached garage structure to be demolished. This application proposes to retain the existing detached garage structure. This amendment does not alter the approved built dwelling form and which is considered to be substantially the same.

(c) it has notified the application in accordance with—

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

Comment: The application will be notified if required and in accordance with Council guidelines.

LEGISLATION

Planning for Bushfire Protection 2006

The subject site is not identified as bushfire prone land on Council's Bushfire Prone Land Map and therefore the provisions of Planning for Bushfire Protection 2006 do not apply.

Warringah Local Environmental Plan 2012

The site is zoned R2 Low Density Residential under the provisions of the Warringah Local Environmental Plan. Development for the purpose of a dwelling house is permissible with Consent in this zone.

The following provisions of the LEP apply to the proposed development:

Clause	Development Standard	Proposal	Compliance
4.3 Height	8.5m	No change to approved height.	Yes

The following clauses also apply:

Clause 6.4 Development on Sloping Land

The site is identified as part Landslip Area B on Council's Landslip Map. The proposed amendment merely seeks to retain an existing detached garage structure and does not propose any additional building works. Therefore, no further information is required and the existing Preliminary Landslip Risk Assessment prepared by Crozier Geotechnical Consultants and dated 7 June 2017 remains applicable.

Warringah Development Control Plan

The Warringah DCP applies to the subject site. The following provisions are relevant to the proposed modification:

D1 Landscaped Open Space

This clause specifies a minimum landscaped area of 40% of the site area. The site prior to DA2017/1150 being carried out comprises a landscaped area of 206.21m² or 30% of the site area. As the proposed additions approved by DA2017/1150 did not reduce the landscaped area of the site, retaining the existing detached garage results in a landscaped area of 206.21m² or 30%. That is the proposed modification to retain the existing detached garage structure will not reduce the area of landscaping prior to development being carried out.

Stormwater Management Plans have been prepared by a suitably qualified engineer, and all stormwater works have been carried out in accordance with those plans.

JUSTIFICATION

The works as carried out are considered to be justified for the following reasons:

- The retention of the existing garage structure does not have a detrimental impact on the amenity of the adjoining properties as it is an existing non-habitable structure.
- The proposal does not provide for any additional building works.
- There is no net reduction in landscaped area when compared to the original pre DA development.
- The works do not result in any loss of significant views or solar access to the adjoining properties.
- The resultant dwelling complies with the current LEP and the objectives of the DCP.

CONCLUSION

For the reasons stated above it is considered that this application to amend the plans as detailed should be approved.

Should you require additional information to support the proposal or wish to discuss the merits of the structure, please do not hesitate to contact me on 0403 524 583.

Yours faithfully,



Natalie Nolan