



STATEMENT OF ENVIRONMENTAL EFFECTS

ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

57 NANDI AVENUE FRENCHS FOREST

SEPTEMBER 2019



statement of environmental effects

Submission to

NORTHERN BEACHES COUNCIL

ALTERATIONS AND ADDITIONS TO A DWELLING HOUSE

57 NANDI AVENUE FRENCHS FOREST

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This statement has been prepared in consideration of the Expert Witness Code of Conduct in the Uniform Civil Procedure Rules and the provisions relating to expert evidence. The opinions in the statement represent the professional opinions of the authors, based on an assessment of the facts and circumstances as have been cited in the document.



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1.0 INTRODUCTION

This document has been prepared in order to provide information and an assessment in respect of a development application (the 'development application') seeking consent for the carrying out of alterations and additions to the existing dwelling house (the 'proposed development' or 'proposal') on land known as 57 Nandi Avenue Frenchs Forest (the 'site').

Consideration has been given to the environmental merit of the proposal having due regard to the following relevantly applicable legislation, statutory planning instruments and subordinate documents (among others):

- Environmental Planning and Assessment Act 1979 ('EPAA');
- Environmental Planning and Assessment Regulation 2000 ('EPAR');
- Warringah Local Environmental Plan 2011 ('WLEP');
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (`SEPP (BASIX)'); and
- Warringah Development Control Plan 2011('WDCP').

In our opinion, the development application succeeds on the merits and pursuant to the relevant legislation and is suitable for a grant of development consent by Council.

2.0 SITE LOCATION AND DESCRIPTION

2.1 Location

The surrounding area consists for the most part of a low density residential neighbourhood (predominantly characterised by one and two storey dwelling houses) and public open space. The area has been settled and used for residential development for quite a considerable period of time.

A locality map is provided at **Annexure 1.**

An aerial photograph is provided at **Annexure 2.**



A cadastral plan is provided at **Annexure 3.**

2.2 The Site

The site is legally described as Lot 58 in Deposited Plan 221359 and has an area of 557.40 sqm.

The site is located on the western side of Nandi Avenue, Frenchs Forest. Nandi Avenue is a relatively narrow, very private and tree lined street.

The land comprising the site slopes down from the front boundary of the site towards the rear of the site.

Currently, the site is occupied by a two-storey dwelling house comprising three bedrooms, two bathrooms and two small living areas.

Photographs of the site and the surrounding streetscape are provided at **Annexure 4**.

3.0 DEVELOPMENT PROPOSAL

The proposed development involves the carrying out of alterations and additions to the existing dwelling house. Specifically, the proposal involves the extension of the existing dwelling house, construction of a new master bedroom with ensuite and walk in robe, new open-plan kitchen and living area, a new deck and internal modifications to the dwelling entry.

Architectural plans showing the proposed alterations and additions, and detailing the proposed floor layout, accompany the development application.

4.0 STATUTORY PLANNING FRAMEWORK

4.1 SEPP (Exempt and Complying Development Codes) 2008

The proposed development is neither 'exempt development' or 'complying development' under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* in our opinion.



4.2 Warringah Local Environment Plan 2014

4.2.1 General

Warringah Local Environmental Plan 2011 (WLEP), being the relevantly applicable environmental planning instrument, commenced on 9 December 2011.

4.2.2 Aims

WLEP aims to make local environmental planning provisions for land within the former local government area of Warringah (and now part of the Northern Beaches local government area) in accordance with the relevant standard environmental planning instrument made under the EPAA (refer 1.2(1), WLEP).

The particular aims of this Plan relevantly include the following (refer clause 1.292), WLEP):

...

- (d) in relation to residential development, to:
 - (i) protect and enhance the residential use and amenity of existing residential environments, and
 - (ii) promote development that is compatible with neighbouring development in terms of bulk, scale and appearance, and
 - (iii) increase the availability and variety of dwellings to enable population growth without having adverse effects on the character and amenity of Warringah,

...

- (f) in relation to environmental quality, to:
 - (i) achieve development outcomes of quality urban design, and
 - (ii) encourage development that demonstrates efficient and sustainable use of energy and resources, and
 - (iii) achieve land use relationships that promote the efficient use of infrastructure, and

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- (iv) ensure that development does not have an adverse effect on streetscapes and vistas, public places, areas visible from navigable waters or the natural environment, and
- (v) protect, conserve and manage biodiversity and the natural environment
- 4.2.3 Zoning and Permissibility

The site is zoned R2 Low Density Residential under WLEP.

'Dwelling house' is the relevantly applicable purpose (in terms of the land use table). Development for the purpose of a dwelling house is permissible with consent on land within the R2 zone.

The proposal involves the carrying out of certain proposed alterations and additions to the existing dwelling house. The works proposed are therefore ancillary to the dwelling house purpose. Thus, the purpose of the proposed development is a 'dwelling house' which, as mentioned, is permissible with consent in the zone.

A zoning map extract from WLEP depicting the site is provided at **Annexure 5**.

4.2.4 Zone Objectives

The R2 zone objectives under WLEP are as follows:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.



In our opinion, the proposed development is consistent with such of the zone objectives as are of relevance to the proposed development. In particular, the development will provide for the housing needs of the occupants of the existing dwelling house within an existing low density residential environment in a manner that will ensure that the existing low densitv environment residential continues to be characterised by landscaped settings that are in harmony with the natural environment of the former local government area of Warringah.

4.2.5 Height of Buildings

Clause 4.3 of WLEP ('Height of buildings') is a principal development standard of WLEP.

The objectives of clause 4.3 are as follows (refer clause 4.3(1)):

- (a) to ensure buildings are compatible with the height and scale of surrounding and nearby development,
- (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,
- (c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,
- (d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities,

By virtue of WLEP Height of Buildings Map (tile HOB 007), the maximum permissible height of a building on the site is 8.5 metres.

The height of the proposed additions to the existing dwelling house do not exceed 8.5 metres. Furthermore, the proposed development is, in our opinion, consistent with the objectives of the height of buildings development standard.

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Please refer also to the architectural drawings accompanying the development application for more specific detail.

A height of buildings map extract from WLEP, depicting the site, is provided at **Annexure 6**.

4.2.6 Landslip Risk Land

The majority of the site is identified as 'Area B' (flanking slopes 5 to 25) on the Landslip Risk Map. A small portion of the rear of the site, in the south-western corner of the site, is identified as 'Area A' (slope <5) on the Landslip Risk Map.

Clause 6.4 of WLEP relates to development on sloping land.

The objectives of this clause are as follows (refer clause 6.4(1)):

- to avoid significant adverse impacts on development and on properties in the vicinity of development sites resulting from landslides originating either on or near sloping land,
- (b) to ensure the impacts of storm water runoff from development on or near sloping land are minimised so as to not adversely affect the stability of the subject and surrounding land,
- (c) to ensure subsurface flows are not adversely affected by development so as to not impact on the stability of existing or adjoining land.

The development proposes a new stone retaining wall at the south-eastern eastern courner of the site to be infilled, improving the stability of the site.

The proposed alterations and additions are relatively minor in nature and are generally consistent with clause 6.4 of WLEP.

A Landslip Risk Map extract is provided at **Annexure 7**.



4.3 Warringah Development Control Plan 2011 (WDCP)

4.3.1 Objectives

Warringah Development Control Plan 2011 (WDCP) applies to development on the site.

By virtue of Part A.5 of WDCP, the overriding objective of WDCP is to create and maintain a high level of environmental quality throughout the former local government area of Warringah. Development should result in an increased level of local amenity and environmental sustainability.

The other stated objectives of WDCP are as follows (refer Part A.5 of WDCP):

• To ensure development responds to the characteristics of the site and the qualities of the surrounding neighbourhood

• To ensure new development is a good neighbour, creates a unified landscape, contributes to the street, reinforces the importance of pedestrian areas and creates an attractive design outcome

• To inspire design innovation for residential, commercial and industrial development

• To provide a high level of access to and within development.

• To protect environmentally sensitive areas from overdevelopment or visually intrusive development so that scenic qualities, as well as the biological and ecological values of those areas, are maintained

• To achieve environmentally, economically and socially sustainable development for the community of Warringah[.]

The controls contained in WDCP, to the extent to which they are relevantly applicable to the proposed development, will now be considered and discussed.

4.3.2 Locality

The site is located in the Frenchs Forest Locality.

In our opinion, the proposed development is generally consistent with the outcomes of clause A1 of WDCP.



The development proposal involves the carrying out of alterations and additions to the existing dwelling house on the site. In our opinion, the proposed alterations and additions will respond to the context in which the site is located.

The site is located on a sloping, rectangular block, with the existing two-storey dwelling house being located below street level. The proposed alterations and additions will be located at the rear of the site and will not be visible from Nandi Avenue.

4.3.3 Aboriginal Heritage

The site has not been identified as a potential Aboriginal place or as containing an Aboriginal object. As such, the proposed development will not have any significant impact on the conservation of any known Aboriginal places or objects.

4.3.4 Stormwater Management

The alterations and additions to the existing dwelling do not propose to alter the existing stormwater management system in any way.

Despite the proposal resulting in additional hard surface area, the current stormwater management system is adequate and will continue to effectively service the dwelling.

Please also refer to the Stormwater Infrastructure Map at **Annexure 9**.

4.3.5 Access, Parking and Traffic

We advise that the existing dwelling house is limited in parking and currently only has provision for one off-street car parking space.

In noting the sloping nature of the block and nature of existing parking conditions on the site, it is our opinion that the provision of one car parking spaces, as proposed, is sufficient in this instance.



Off-street parking as required by Part C3 of WDCP is two spaces per dwelling (*not* being a secondary dwelling) with two bedrooms or more. It is not possible in the current circumstances to provide any additional parking on the site, given the slope of the site and the location of the existing dwelling house and driveway. We request that Council consider the proposal on its merits, making allowance given the abovementioned site constraints and difficulties as well as the matters mentioned below.

The current parking arrangement is functional and workable. To provide any further parking spaces on site would necessitate the carrying out of significant and costly construction works, which in themselves could well have undesirable environmental consequences, in terms of earthworks, and so on, and would cause disruption to the neighbouring properties. We respectfully submit that it is in the best interests of all concerned to maintain the existing parking situation.

In our opinion, the proposed development is consistent with the relevant development controls of Part C3 of WDCP.

4.3.6 Excavation and Landslip Hazard

As mentioned in section 4.2.6 of this document, the development proposal involves minimal excavation.

A geotechnical risk assessment report accompanies the development application and addresses the effects of excavation and landfill operations as a result of the carrying out of the proposed development.

Pursuant to the recommendations of the geotechnical risk assessment report, the proposal complies with the requirements of Council's *Geotechnical Risk Management Policy for Pittwater* (2009).



4.3.7 Erosion and Sediment Management

Appropriate erosion and sedimentation management measures, so as to ensure that there is low impact in terms of runoff with a view to meeting the controls contained in Part C5 of WDCP, are included as part of the development application. Please refer to the erosion and sediment management plan for further information.

4.3.8 Waste Minimisation

Waste generation as a result of construction works will be minimised and disposed of at an appropriate waste facility. Alternatively, or additionally, waste will be recycled and re-used on site to the maximum extent possible. Please refer to the waste management plan for further information.

4.3.9 Site Fencing and Security

Appropriate site protection will be undertaken during the construction stage of the development, so as to ensure public safety and the protection of the public domain.

4.3.10 Landscaped Area

Control D1 of WDCP requires the total landscaped area on land zoned R2 Low Density Residential to be 40% of the site area. The proposed alterations and additions to the existing dwelling house will result in a soft landscaped area of 216 sqm with an additional 4.0 sqm the surface area of the spa. Together, this amounts to 39.8% of the site area.

The overall design intent and sought-after outcome is to preserve as many of the existing trees on the site as possible as well as minimise any impact on the established gardens and native trees, in particular, at the rear of the site. The proposed second floor addition achieves the



needs of the occupants, without additionally disturbing the site itself.

The proposed alterations and additions are not extensive and are necessary in meeting the demands of the site owner for additional living space. In our opinion, the breach of landscaping area is extremely minor and does not detract from the overall merit of the proposal.

4.3.11 View Sharing

In accordance with Part D7 of WDCP, the development proposal will not materially affect views from any neighbouring properties. The nature of the sloping site ensures that existing views from adjoining properties are maintained.

4.3.12 Acoustic and Visual Privacy

The proposed alterations and additions to the existing dwelling house are located away from the street, thus assisting in maintaining acoustic and visual privacy in accordance with Part D8 of WDCP.

Given the topography and the existing the southern vegetation on and northern boundaries of the site, the proposed development does not result in any privacy impacts to nearby neighbours.

Please refer to the photographs of the site and the surrounding streetscape provided at **Annexure 3**.

4.3.13 Solar Access

The proposed alterations and additions are designed to ensure appropriate access to sunlight for living spaces achieve the relevant requirements for solar access to the property (refer Part D6, WDCP). The main private open space area at the rear of the existing dwelling and the proposed new deck and bedroom extension will receive adequate solar access during the winter solstice.



Shadow diagrams accompanying the development application demonstrate that any additional shadowing consequent of the development will have only minor impact on neighbouring properties.

4.3.14 Natural Environment

Spotted Gums on the site are not adversely affected by the proposed development. The development proposal does not involve construction of any permanent fencing on the site, in compliance with the controls contained in Part B4.7 of PDCP.

As required by Parts B4.7(b) and B4.22 of PDCP, an arborist report is submitted. An arboricultural impact assessment providing detailed information about flora on the site accompanies the development application. The assessment supports the proposed development.

Please refer to the arboricultural impact assessment for more specific detail.

4.3.15 Roofs and Eaves

The proposed extension of the dwelling house is consistent with the existing roof line, complementing the roof pitch and forms of the streetscape.

The proposed alterations and additions to the dwelling house incorporate eaves into the design, in compliance with the controls contained in Part D11 of WDCP.

Please also refer to the architectural plans and elevations accompanying the development application.

4.3.16 Glare and Reflection

The proposed alterations and additions to the dwelling house incorporate appropriate materials into the design to minimise glare and



reflection, in compliance with the controls contained in Part D11 of WDCP.

4.3.17 Private Open Space

The proposed development includes private open space which exceeds the minimum requirements of 60 sqm in area and 5m in width (refer Part D2, WDCP).

A new timber deck, orientated to the west and directly accessed from the living space, is proposed for the first storey level. As respects the use of the deck and impacts resulting therefrom, the topography of the site and the existing vegetation on the site will limit overlooking and assist in the maintenance of the privacy of adjoining residential properties.

Please refer to the plans accompanying the development application.

4.3.18 Setbacks and Building Line

Part B7 of WDCP provides for a minimum front building line of 6.5m or the established building line, whichever is the greater.

The proposed new works comply with the 6.5m front setback. As the existing dwelling house is set back from the street and no significant work is required at the front, the proposed alterations and additions will, in our opinion, have virtually no impact in terms of streetscape.

Part B5 of WDCP provides for a minimum side building line setback of 0.9m, with which the proposed development complies with on both sides. and a minimum rear building line setback of 6.5m. Part B9 of WDCP provides for a minimum rear setback of 6m. The proposed development is compliant with these provisions and allows the proposal to achieve the objectives of WDCP, in such as privacy, solar access and amenity are preserved.



4.3.19 Building Envelope

Part B3 of WDCP seeks to ensure that new development responds to, reinforces and relates to the spatial characteristics of the existing natural environment with respect to streetscape, bulk, scale and form, and existing vegetation. The objectives of Part B3 are as follows:

- To ensure that development does not become visually dominant by virtue of its height and bulk.
- To ensure adequate light, solar access and privacy by providing spatial separation between buildings.
- To ensure that development responds to the topography of the site.

When measured from the eastern elevation of the property, the dwelling lies within the boundary created by a 45-degree angle taken from 4m above the natural ground level. When measured from the natural ground level at the western elevation, however, the is a minor departure from the control on the southern side involving the existing roof line. This is shown on architectural the plans, particularly the elevations which plan, accompany the development application.

Be that as it may, this feature is in response to the sloping typography of the site and does not appear to be a visually dominant element of the building, nor does it excessively restrict the privacy of or solar access to adjoining buildings.

In our opinion, the proposed development remains consistent with the desired outcomes of this control despot the minor breach to the building envelope controls through the existing roof line of the dwelling house.

4.3.20 Building Bulk

In consideration of Part D9 of WDCP, the proposal accommodates the requirements upon sloping blocks to minimise downhill bulk and building footprint. Further, the proposal allows the building mass to step down the slope



through the use of piers and footings and layered room design. As the proposal only involves alterations and additions to the upper storey of the dwelling, excavation of the landform is minimised, and proposed fill does not exceed one metre in depth.

Fill does, however, extend beyond the footprint of the building, however this is considered necessary in the circumstances as it improves the stability of the site in an area of landslip risk.

It -is considered that the building height and scale effectively respond to the conditions and typography of the site, while associated building articulation, colours, materials, treatment and landscaping works are designed so as to reduce the visual bulk of the dwelling.

Please refer to architectural plans accompanying the development application, the elevation plans and concept drawings in particular, for further detail.

4.3.21 Building Facades

There are no service pipes external to the proposed building facades which are visible to any public places (refer Part D21 of WDCP).

Elevation plans of the proposed development accompany the development application.

4.3.22 Colours and Materials

A colours and materials scheme accompanies the development application.

The proposed colours and materials are sympathetic to the surrounding natural and built environment and are furthermore consistent with Part D10 of WDCP.

4.3.23 Conservation of Energy and Water

The proposal incorporates natural ventilation and daylight to its advantage, while ensuring the



design allows the minimisation and conservation as regards energy and water use.

Further, the proposal is consistent with Council's Water Management Policy.

4.3.24 Site Facilities

In accordance with Part D4 of WDCP, the proposal incorporates appropriate garbage and recycling enclosures, a mail box and clothes drying facilities.

4.3.25 Safety and Security

The building is designed to allow casual surveillance of the street as far as is possible given the sloping nature of the site. Appropriate access and lighting to the entrance of the house is considered in the design of the dwelling. As such, the proposal is consistent with Part D20 of WDCP.

5.0 KEY ISSUES

5.1 Height of Buildings

The development, as proposed, complies with the height control under clause 4.3 of WLEP.

5.2 Natural Resources

One mature tree is proposed to be removed. See arborists report.

5.3 Landscaping

In our opinion, the proposed development is consistent with the relevent objectives for Part D1, WDCP. There is, however, a minor departure from the control for landscaped area of 0.2%, as mentioned above in section 5.1.9 of this document.

Development control plans contain **guideline** controls at best: see *Zhang v Canterbury City Council* (1999) 105 LGERA 18. This is enshrined in sections 3.42 and



4.15(3A) of the *Environmental Planning and Assessment Act 1979* (NSW), which are as follows:

3.42 Purpose and status of development control plans (cf previous s 74BA)

(1) The principal purpose of a development control plan is to provide *guidance* on the following matters to the persons proposing to carry out development to which this Part applies and to the consent authority for any such development:

- (a) giving effect to the aims of any environmental planning instrument that applies to the development,
- (b) facilitating development that is permissible under any such instrument,
- (c) achieving the objectives of land zones under any such instrument.

The provisions of a development control plan made for that purpose are not statutory requirements.

(2) The other purpose of a development control plan is to make provisions of the kind referred to in section 3.43 (1) (b)–(e).

(3) Subsection (1) does not affect any requirement under Division 4.5 in relation to complying development. [Our emphasis]

4.15 Evaluation (cf previous s 79C)

...

(3A) **Development control plans** If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

- (a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and
- (b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards is to be *flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards*



for dealing with that aspect of the development, and

(c) may consider those provisions only in connection with the assessment of that development application.

In this subsection, *standards* include performance criteria. [Our emphasis]

Thus, the purported 'requirement' in WDCP for landscaped area to be provided on site is only a guideline. It is **not** a statutory requirement.

In light of all of the above, we respectfully submit that the minor non-compliance is acceptable on the merits.

5.4 Bulk and Scale

In our opinion, the proposed development is consistent with the bulk and scale of newer built elements in the locality.

The proposed development is both compliant with the relevant requirements and desired outcomes of this control of WDCP.

5.5 Parking

Even though two car parking spaces are notionally 'required' to meet the parking requirements pursuant to Part C3 of WDCP, that is simply unachievable in this instance due to the slope of the site and the location of the existing dwelling house. Furthermore, the creation of any further parking spaces on site would result in significant construction works at the expense of landscaped area requirements.

There is a one car parking space provided on the site, however, additional parking space is achievable through tandem parking along the driveway. Street parking is also available along Nandi Avenue and does not appear to be greatly in demand.

It is important to note that development control plans contain **guideline** controls at best (see *Zhang v Canterbury City Council* (1999) as addressed in section 6.4, 'Landscaping', above).



Thus, the purported 'requirement' in WDCP for two car parking spaces to be provided on site is only a guideline. It is **not** a statutory requirement.

In light of all of the above, we respectfully submit that the minor non-compliance is acceptable on the merits.

5.6 Bushfire Prone Land

The site is bushfire prone land: refer the Warringah Council's Bushfire Land Map.

A bush fire assessment report accompanies the development application. The report prepared by Australian Bushfire Consulting Services.

Annexure 8 provides bushfire prone land map (extract from WLEP).

6.0 CONCLUSION

This document addresses the statutory planning regime applicable to the development application and demonstrates that the proposed development involving the carrying out of alterations and additions to the existing dwelling house on the site is permissible, compliant with the relevantly applicable development standards and other planning controls, generally consistent with the relevant guideline controls contained in WDCP, and appropriate in all the circumstances.

The heads of consideration contained in section 4.15 of the EPAA have been examined and considered to the extent to which they are relevantly applicable to the proposed development and, in our opinion, there are no matters which would prevent Council from granting consent to the proposed development in this instance, subject to the imposition of appropriate and reasonable conditions of consent.

In our opinion, the development proposal merits support from the consent authority and a grant of conditional development consent.

LOCALITY MAP



AERIAL PHOTOGRAPH



CADASTRAL PLAN



PHOTOGRAPHIC PALETTE



PHOTOGRAPH 1 – LOOKING TOWARDS THE SITE FROM NANDI AVENUE.



PHOTOGRAPH 2 – LOOKING TOWARDS THE SITE IN A NORTH-WESTERLY DIRECTION FROM ACROSS THE STREET.



PHOTOGRAPH 3 – LOOKING DOWN NANDI AVENUE IN A NORTHERLY DIRECTION. THE SITE IS LOCATED IMMEDIATELY TO THE LEFT.



PHOTOGRAPH 4 – VIEW OF THE EXISTING DRIVEWAY OF THE SITE.



PHOTOGRAPH 5 – VIEW OF THE ADJACENT RESIDENTIAL PROPERTY OPPOSITE THE SITE (IN THE EAST).



PHOTOGRAPH 6 – ADJACENT RESIDENTIAL PROPERTY (SOUTHERN) AND THE EXISTING DRIWAY.

ZONING MAP (EXTRACT FROM WLEP)



HEIGHT OF BUILDINGS MAP (EXTRACT FROM WLEP)



LANDSLIP RISK MAP (EXTRACT FROM WLEP)



BUSH FIRE PRONE LAND MAP (EXTRACT FROM WLEP)



STORMWATER INFRASTRUCTURE MAP (EXTRACT FROM WARRINGAH STORMWATER INFRASTRUCTURE MAP)

