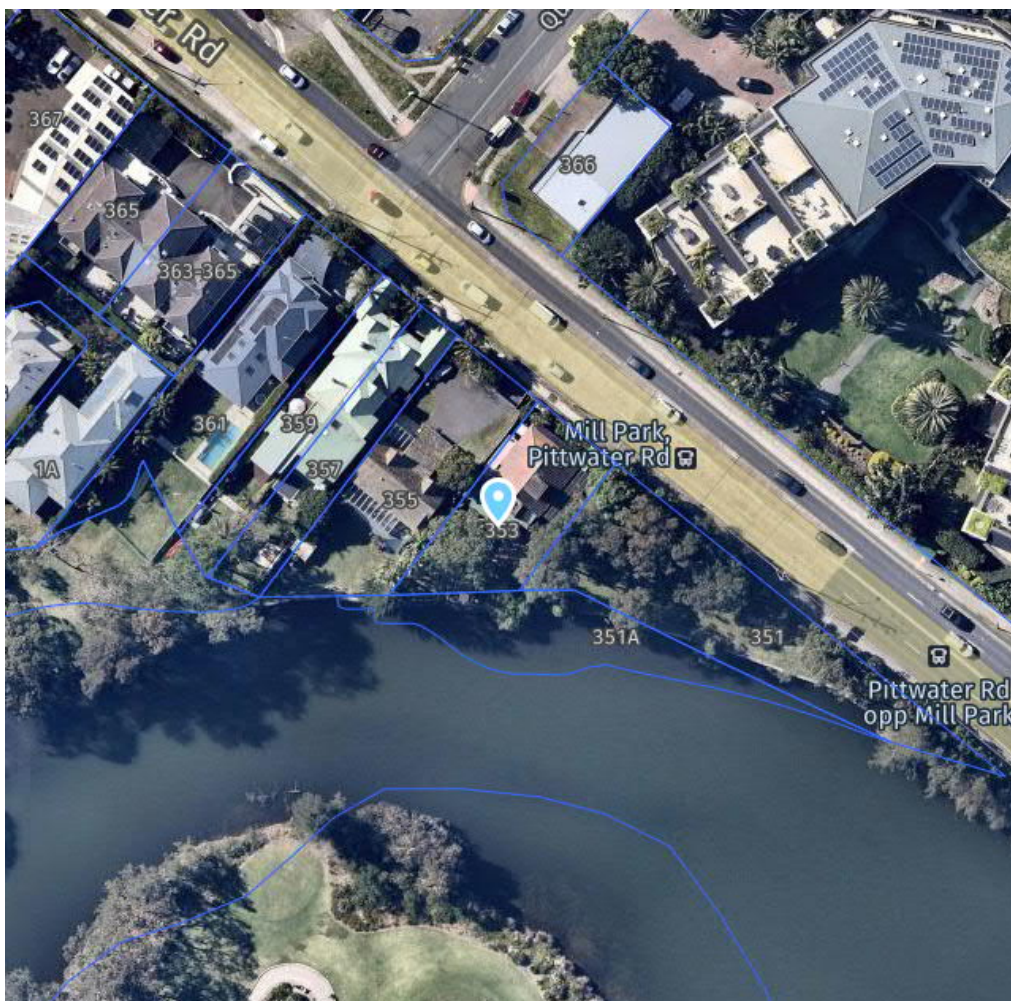


# STATEMENT OF ENVIRONMENTAL EFFECTS



Applicant:  
Hall and Hart Homes  
PO Box 2005  
PARRAMATTA NSW 2750

Site Address:  
Lot 7 Sec 4A DP 1448  
353 Pittwater Road  
NORTH MANLY NSW 2100

Construction of a Two Storey Dwelling.

## INTRODUCTION

---

This Statement of Environmental Effects is submitted to Northern Beaches Council in accordance with the Environmental Planning and Assessment Act 1979, in support of a development application for the erection of a new two storey dwelling containing four (4) bedrooms, upper rumpus, family and meals rooms, along with an attached garage and alfresco area.

The site is located on a slightly irregular shaped allotment, with a frontage to Pittwater Road of 15.24m and a rear boundary adjoining Manly Creek and a total land area of 455.3m<sup>2</sup>. The lot currently contains an existing dwelling which is to be demolished under a separate application to Council, with some minor trees requiring removal to appropriately site the proposed dwelling, for more details on tree removal and protection, please refer to the accompanying Arboricultural Impact Appraisal prepared by Naturally Trees.

The site has an irregular fall over the site with drainage to be directed to an approved system as per the Hydraulic Details.

The neighbourhood generally consists of a mix of residential dwellings of one and two storey construction as anticipated within an existing residential area.

The proposed dwelling will contribute positively to the surrounding area and the streetscape of Pittwater Road.

## ENVIRONMENTAL EFFECTS

---

The following sections address the matters for consideration as listed in Section 4.15 of the Environmental Planning & Assessment Act 1979. A comment is provided against each relevant matter.

This Statement of Environmental Effects addresses the following relevant Environmental Planning Instruments:

- Warringah Local Environmental Plan 2011
- Warringah Development Control Plan 2011

## 4.15 EVALUATION

---

### (1) Matters for Consideration – general:

#### (a)(i) Relevant environmental planning instruments

---

#### Warringah Local Environmental Plan 2011

The LEP is divided into several Parts and the relevant provisions that apply to the subject development are listed, together with a comment with respect to compliance.

The subject site is zoned R2 Low Density Residential pursuant to Clause 2.1 of Warringah Local Environmental Plan 2011.

The proposed development is defined in the plan as a 'dwelling house', being 'a building containing only one dwelling'.

The identified zone permits the construction of a 'dwelling house' subject to development consent from Council.

#### Clause 2.3 Zone objectives and land use table

The objectives of the R2 Zone are:

- 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.

The proposed development is for a low density residential dwelling, being compatible with the existing and future character of the locality. The dwelling is designed to provide a high level of amenity for its residents whilst considering the natural constraints of the site. The proposed dwelling is considered to meet the objectives of the R2 Zone.

#### Clause 4.3 Height of Buildings

Requirement	Provision	Compliance
8.5m	9.267m	No – Please refer to Appendix A.

#### Clause 4.6 Exceptions to Development Standards

The overall height of the dwelling exceeds Councils maximum permitted, a Clause 4.6 variation is provided in Appendix A.

#### Clause 5.10 Heritage Conservation

Upon reference to Schedule 5 in relation to local, State or Regional items of heritage significance including conservation areas, it was revealed that the subject property was not identified as having heritage significance, nor within the vicinity of heritage items.

#### Clause 5.11 Bush fire hazard reduction

The subject site has not been identified as bushfire prone land.

#### Clause 6.1 Acid Sulfate Soils

The subject site is affected by Class 4 and 5 Acid Sulphate Soils. The proposal is not considered to lower the water table by 1 or 2 meters and requires minimal excavation. Approximately 500mm deep excavation required for strip footings to support the suspended concrete slab. Screw piles will be used to prevent aeration of the soil or reaction in the acid sulfate soils.

#### Clause 6.3 Flood planning

The subject site has been identified as flood prone land on Councils 10.7 Certificate. As per the Flood Management Plan prepared by Zait Engineering Solutions, the proposed development meets with the required minimum finished floor levels of 3.15mAHD for the garage and 3.65mAHD for the ground floor. These levels aim to ensure the dwelling suffers minimal loss or damage in the event of a flood.

\* \* \*

#### Conclusion with respect to LEP requirements

The proposal is considered to generally satisfy the relevant objectives and development standards relating to dwelling houses as contained within WLEP 2011.

#### (a)(ii) Relevant draft environmental planning instruments

---

There are no draft environmental planning instruments that would prevent the subject development from proceeding.

Warringah Development Control Plan 2011

PART B BUILT FORM CONTROLS

Requirement	Provision	Compliance
B1 – Wall heights Max. wall height 7.2m existing ground to upper ceiling.	7.303m max. wall height.	No*

\*Wall Height – Warringah DCP 2011 states that the maximum wall height for dwellings is 7.2m. The proposed dwelling has a maximum external wall height of 7.303m along both side elevations due to the provision of a suitable floor level for flooding.

The minor increase of the wall height allows for an appropriate floor level in accordance with the requirements for the flood prone area. The additional wall height will remain in keeping with other two storey development within the vicinity.

The variation is not considered to create a detrimental impact with regard to visual bulk, overshadowing or privacy of adjoining properties, due to the appropriate height of the dwelling ensuring shadows cast will not result in less than required levels the adjoining properties. The shadows cast are largely over the reserve and will not be of any impact to surrounding residents. The dwelling will not result in an excessive visual bulk as the surrounding development is of a similar or larger scale.

The proposed wall height is not considered to result in any detrimental impact to adjoining properties and the objectives of the controls can be met despite the non-compliance. It is therefore requested that a variation be supported in this instance.

B2 - Number of Storeys Max. no. storeys shown on DCP No. Storeys map.	Two Storeys.	Yes
B3 - Side Boundary Envelope Side boundary envelope 45° & 4m or 5m from existing ground (refer DCP Map) Encroachment of the fascia, gutters, eaves permitted.	Upper floor walls, gutters and eaves extend outside building envelope.	No**

\*\*Building Envelope – The proposed development provides a two storey dwelling that is in keeping with contemporary dwelling sizes and requirements of modern families. The proposed dwelling extends beyond the building envelope along both elevations for a section

of the upper floor wall. The encroachment is largely the result of providing a suitable floor level for flood impacts on the site, whilst maintaining a suitable contemporary design to suit the residents needs. The encroachment will not result in any excessive impact to the adjoining properties or residents and remains capable of meeting with the objectives of the control, despite the encroachment.

The objectives of the control are to ensure that the development does not become visually dominate by virtue of the height and bulk, to ensure adequate sunlight and privacy by providing spatial separation and to ensure development responds to the topography of the site.

The proposed dwelling has minimised the bulk and scale as much as possible, whilst still providing a two storey design that meets with the residents needs. The proposed floor level is required for flooding issues that may be experienced over time. The increased finished floor level is the main reason the dwelling extends outside the building envelope, when measured from the required FFL for the garage (3.15m AHD), the dwelling has encroachments of the gutters and eaves only, which is considered acceptable in Council's DCP. A building envelope at the FFL required for the dwelling (3.65m AHD) shows the dwelling is entirely within the building envelope. This shows that the non-compliance is largely the result of needing to provide an increased floor level, rather than a dwelling that is excessive.

Appropriate side setbacks to the dwelling have been maintained and this will ensure the bulk and scale of the dwelling is minimised when viewed from adjoining properties. This also ensures appropriate spatial separation between the dwellings. The dwelling adjoins a recreational area to the south-east. Suitable setbacks have been provided to ensure the dwelling is not of an unreasonable bulk and scale to patrons using this area. The north-western elevation adjoins a residential dwelling, suitable setbacks have also been provided, along with an increased setback to the first floor to ensure spatial separation is maintained between dwelling houses within the streetscape.

Access to sunlight will not be detrimentally impacted upon as shadows cast from the subject site are over the recreational area, ensuring neighbouring properties maintain the adequate solar access to POS and living areas. The encroachments of the building envelope will not have a significant impact upon the shadows cast and compliance with building envelope would not have a significant benefit. The encroachments will not be noticeable from the street and will not have any impact upon the streetscape.

The proposed dwelling is considered to remain in keeping with the objectives of the control, despite the numerical non-compliance. The dwelling is considered to be a suitable design for the site, and as there is no detrimental impact upon adjoining properties and the variation is largely the result of the flood issues, the proposed design is considered to be a suitable outcome in this case. It is requested Council consider the flood impacts of the site when reviewing the proposed design and allow for some variation to the building envelope control.

B4 - Site Coverage Site coverage as per Site Coverage Map	N/A	N/A
B5 – Side Boundary Setbacks As per DCP Side Boundary Setbacks map: - 0.9m.	Min. 1.15m provided to dwelling.	Yes
B6 - Merit Assessment of Side Boundary Setbacks for sites shown on map.	N/A	N/A
B7 – Front Boundary Setbacks As per DCP Front Boundary Setbacks map: - 6.5m.  Corner allotments in R2 and R3 Zones: Where the min. front setback is 6.5m on both frontages the secondary street setback can be reduced to 3.5m	6.5m to building line.  N/A	Yes  N/a
B8 - Merit Assessment of Front Boundary Setback for sites shown on map.	N/A	N/A
B9 - Rear Boundary Setbacks As per DCP Rear Boundary Setbacks map: - 6m.  Corner lots on R2/R3 Zones with 6m rear boundary requirements not applicable.	1.292m  Suitable rear setback provided.	No***  Yes

\*\*Rear Setback – The subject site has an irregular, curved rear boundary that results in a request for a variation to Council's rear boundary controls. The proposed dwelling has a minimum setback to the rear boundary of 1.292m at the corner of the dwelling and 2.304m to the alfresco area. Despite the variation, the rear setback is able to maintain the objectives of the control and will not have any detrimental impact upon adjoining properties. As such, it is requested Council consider the following in the assessment of this application.

The objectives of the rear setback control focus on the maintenance of privacy between dwellings and the amenity of properties. The proposed dwelling will not have any detrimental impact upon the privacy of the adjoining property as the proposed dwelling is suitably sited on the subject allotment that the views from any north-west elevation windows are largely



over the front setback of the adjoining property. The alfresco area is suitably setback and will be appropriately landscaped to ensure there is no opportunities for overlooking as a result of the raised floor level. It is understood the alfresco area and balcony at the rear are positioned and designed to take advantage of the views to the rear over Manly Creek. The alfresco area and balcony are capable of being fitted with privacy screens to ensure the privacy of adjoining properties. However, given the setbacks and siting of the dwelling on the site, the areas do not promote overlooking into any POS or recreational areas of the adjoining property.

The rear yard is still capable of providing a sense of openness and suitable deep soil zone areas are capable of being maintained within the rear yard to ensure the continuity of building patterns and landscape character of the area.

Despite a smaller rear setback, the dwelling has been designed to accommodate a suitable private open space area in the rear yard that meets with the minimum requirements. The POS area will receive adequate solar access, given the orientation of the site, and will be suitably landscaped to ensure privacy is maintained.

There will be no increase in shadows cast over the adjoining properties POS area due to the orientation of the site. The adjoining site will continue to meet the minimum solar access requirements as the orientation of the site is favourable and appropriate measures have been incorporated into the design to ensure minimal impact.

The variation to the rear setback will not result in an excessive visual bulk, loss of privacy or reduced solar access to the adjoining sites. The rear yard provides for suitable areas of POS and deep soil plantings, which will ensure a sense of openness is maintained. The proposed dwelling is considered to meet the objectives of the control given the appropriate design and siting.

The overall design and siting is considered to be most appropriate for the proposed dwelling on the subject site. The proposed dwelling will not result in any detrimental impact beyond that of a compliant proposal, it is therefore considered reasonable for the variation to the supported.

B10 - Merit Assessment of Rear Boundary Setback for sites shown on map.	N/A	N/A
B11 - Foreshore Building Setback As per the map - 15m	N/A	N/A
B12 - National Parks Setback As per the map - 20m	N/A	N/A
B13 - Coastal Cliffs Setback as per map.	N/A	N/A



B14 - Main Roads Setback as per map.	N/A	N/A
--------------------------------------	-----	-----

## PART C SITING FACTORS

Requirement	Provision	Compliance
C2 – Traffic, Access and Safety Suitable vehicular access from a public road.	Access from public road provided.	Yes
C3 – Parking Facilities Garage/carport integrated into house design.	Garage integrated into the principal dwelling.	Yes
Laneways to provide rear access where possible.	N/A	N/A
Parking not to obscure views from dwelling to street.	Complies.	Yes
Garage/carport opening max. 6m or 50% building width, whichever lesser.	Double garage door width 4.81m or 37.93%.	Yes
2 spaces per dwelling.	2 spaces provided within the attached garage.	Yes
C4 – Stormwater Suitable stormwater system for each site.	Stormwater as per Hydraulics.	Yes
C5 – Erosion and Sedimentation Erosion and Sedimentation controls to be in place.	Provided for consideration.	Yes
C7 – Excavation and Landfill Cut and fill not to impact neighbours.	Cut and fill appropriately minimised with the use of drop edge beams to minimise impact on neighbours.	Yes
Clean fill only.	No imported fill proposed.	N/A
C9 Waste Management Waste Management Plan to be provided.	Provided.	Yes

Bin storage area to be allocated.	Adequate area available on site out of public view.	Yes
-----------------------------------	---	-----

#### PART D          DESIGN

Requirement	Provision	Compliance
<p>D1 – Landscape Open Space and Bushland Setting Landscaped open space as per map soft landscape with min 2m width.</p> <p>Subject site = 40%</p>	<p>&gt;2m width.</p> <p>39.9% provided – minor variation of 420mm is not considered to result in any detrimental impact upon the site maintaining the landscape character of the area or providing suitable deep soil and POS areas. The minor variation is not likely to be noticeable and will not have any impact beyond that of a compliant proposal.</p>	<p>Yes</p> <p>For Councils Consideration</p>
<p>D2 – Private Open Space POS area = 1-2 bedrooms – 35m<sup>2</sup> min 3m width.</p> <p>3+ bedrooms – 60m<sup>2</sup> min 5m width. Direct access from living area.</p> <p>POS located behind building line.</p> <p>Maximise solar access &amp; privacy.</p>	<p>N/A</p> <p>116.15m<sup>2</sup>, with min. width 5m. Accessible from family/meals room.</p> <p>Behind building line.</p> <p>Appropriate level of solar access and privacy provided through the design, considering the orientation of the lot and appropriate setbacks to living spaces.</p>	<p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>D6 – Access to Sunlight Consider solar access &amp; ventilation in siting of dwelling.</p> <p>3hrs sunlight to 50%POS and glazed areas to living rooms between 9am &amp; 3pm.</p>	<p>Dwelling appropriately sited for the orientation of the allotment.</p> <p>Proposed and adjoining POS and living areas to receive appropriate level of solar access due to</p>	<p>Yes</p> <p>Yes</p>

	appropriate setbacks, height and articulation.	
D7 – Views View sharing to be considered.	No loss of views is anticipated.	Yes
D8 – Privacy Maintain privacy to adjoining properties.	Living areas predominantly orientated to front/rear POS areas. Suitable setbacks and landscaped area provided to maintain privacy.	Yes
D9 – Building Bulk Avoid large areas of continuous wall planes.  Max. fill 1m and to remain within building footprint.  Minimise excavation.  Orientate dwelling to street.  Use articulation and materials to reduce building mass.	Dwelling is not considered to have an excessive visual bulk.  <1m fill, contained within building footprint (garage only). Dwelling designed as slab on piers.  Excavation not considered excessive for the site.  Dwelling addresses street.  Suitable articulation and materials considered to have been provided for the site.	Yes  Yes  Yes  Yes  Yes
D10 – Building Colours and Materials Colours finishes to blend with natural setting.	Earth tones provided.	Yes
D11 – Roofs Pitch to compliment streetscape.  Varied roof forms to be provided.  Eaves required.	Pitch in keeping with surrounding area.  Varied roof forms provided.  Eaves provided.	Yes  Yes  Yes
D12 – Glare and Reflection Materials to minimise glare.	Non-reflective materials proposed.	Yes

D13 – Front fences and Front walls Front fences 1.2m. Solid fences to be articulated and setback for landscaping. Provide casual surveillance (unless excessive noise requires blocking).  Gates to remain in boundary when open.	N/A	N/A
D14 – Site facilities Site Facilities – bin storage, clothes drying etc. to be provided	Proposed dwelling provides adequate area for site facilities.	Yes
D15 – Side and Rear Fences Side & Rear boundary fencing max. 1.8m measure from low side (can be averaged for sloping sites to allow regular steps).	Boundary fencing to be provided in accordance with Council's requirements.	Yes
D16 – Swimming Pools & Spas Not within primary setback (2ndry setback OK for corner sites). Appropriate setback from trees.	N/A	N/A
D19 – Site Consolidation requirements for the R3 & IN1 Zones	N/A	N/A
D20 – Safety and Security Casual surveillance of street & suitable lighting.	Casual surveillance of the street able to occur. View to entry approach available from large open entry, and habitable room windows.	Yes
D22 – Conservation of Energy and Water Design for water and energy conservation.	BASIX Certificate provided.	Yes

PART E THE NATURAL ENVIRONMENT

Requirement	Provision	Compliance
E3 – Threatened species, population, ecological communities Minimise tree removal and protect remaining trees.	Some minor trees are required to be removed. Please refer to accompanying Aboricultural Impact Appraisal and Method Statement, prepared by Naturally Trees.	Yes
Flora & Fauna assessment if native veg >100m <sup>2</sup> to be removed or veg removed from site in last 5 years.	N/A	N/A
E7 – Development on land adj. public open space Development adj public reserve to compliment character of reserve.	Minor landscaping capable of being provided along side boundary. The proposed dwelling is in keeping with the streetscape and will not have any impact upon the character of the adjoining recreational area.	Yes
Casual surveillance of public reserve.	Habitable room windows provided on ground floor, and alfresco area and balcony will provide further areas for casual surveillance.	Yes
Landscaping to screen development	Minor landscaping proposed, however, given the landscape character of the area, large screening plants are not considered necessary in this case.	Yes
E8 - Waterways and Riparian Land Waterway Impact Statement for works in waterway. Riparian Land Group A & Group B have specific requirements. APZ not to extend into such land.	N/A	N/A
E9 - Coastline Hazard	N/A	N/A
E10 - Landslip Risk As per the map.	Landslip Risk identified as Area A.	For Council's Consideration.

Geotech required where indicated in DCP.	Preliminary assessment to be provided if requested by Council.	
E11 – Flood Prone Land Flood Risk map indicates level. Requirements outlined in DCP.	N/A	N/A

\* \* \*

#### Conclusion with respect to DCP Requirements

The proposed dwelling is considered to be appropriately designed and sited to achieve the objectives of the design provisions with Warringah DCP 2011.

(b) Likely impacts of the development, including environmental impacts on both the natural and built environment of the locality.

The following matters are considered relevant when considering onsite impacts.

**Siting and Design**

The proposed two storey development will be compatible in terms of height, bulk and scale with surrounding developments within the area.

The siting of the dwelling provides generous boundary setbacks, contributing to spatial separation and openness between the dwellings. The articulated design of the dwelling will limit the impact on the adjacent properties in terms of bulk, privacy and overshadowing and will not dominate any perceived views enjoyed by others.

The front façade is appropriately articulated and contains a variety of roof forms and elements and a central entry feature. In this way, the proposal provides a clear definition of the entry and provides varied shadow lines due to the different construction elements and finishes.

**Sedimentation Control**

Due to the topography of the site, excavation will be required for the construction of a level building platform, as shown on the development plans. All disturbed areas will be provided with sedimentation controls in the form of geofabric fencing and/or stacked hay bales. Soil erosion control measures can easily be provided in accordance with Council's policy with compliance required as a condition of consent.

**Waste Minimisation**

All waste will be deposited within the waste receptacle in accordance with the waste management plan attached to this application.

**Noise and Vibration**

All work will be undertaken during hours specified within the development consent. No vibration damage is envisaged occur during construction.

(c) The suitability of the site for the development

The subject site is within an existing residential area, within reasonable driving distance to local commercial, retail and transport facilities. The existing road network provides easy access to all locations.

The two storey dwelling, the subject of the application, can be constructed with all services necessary and has been designed to suit site constraints and the character of the surrounding residential setting.



The dwelling is permissible with development consent under the provisions of Warringah LEP 2011, and generally satisfies the objectives of the relevant development control plans as discussed above.

(d) Any submissions made in accordance with this Act or the regulations

Council will consider any submissions received during the relevant notification period for this development application.

(e) Public interest

As this proposal can reasonably satisfy the objectives of all relevant planning instruments and development control plans, approval of the subject development is considered to be in the public interest.

CONCLUSION

The residential use of the site is permissible with development consent under the provisions of Warringah LEP 2011 and can satisfy the objectives of the relevant development control plan.

It is considered that the construction of a new two storey dwelling will complement and blend with the existing, and likely future character of Belrose. The proposal is not expected to have an adverse impact on the surrounding natural or built environment.



Jessica Dean  
Town Planner – M.Urb.Mgt&Plan  
Local Consultancy Services Pty Ltd  
November 2020

## APPENDIX A

### Clause 4.6 – Exceptions to development standards

---

#### Clause 4.3 Height of Buildings

---

Clause 4.6 of Warringah Local Environment Plan (WLEP) 2011 is intended to provide an appropriate level of flexibility in applying development standards to development to achieve a better outcome in certain circumstances.

Subclause (2) states:

“Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.”

This allows a variation to be sought to development standards under Clause 4.6. In accordance with Subclauses (3), (4) and (5) the following written request seeks to:

- Justify contravention of the maximum building height development standard by demonstrating that compliance is unreasonable or unnecessary in the circumstances and that there are sufficient environmental planning grounds particular to the circumstances of the proposed development and the subject site to justify the contravention;
- Demonstrate that the proposed development will be in the public interest as it remains consistent with the objectives for development in the R2 Low Density Residential zone as well as the objectives of the building height development standard;
- Demonstrate that the contravention of the building height development standard does not raise any matter of significance for State or regional environmental planning; and
- Consider the public benefit of maintaining the building height development standard.

#### NSW Land and Environment Case Law

In order to clarify the extent of the matters required to be addressed within a request for a variation under Clause 4.6, consideration has been given to the following case law:

Wehbe v Pittwater [2007] NSWLEC827

Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC90

Randwick City Council v Micaul Holdings Pty LTD [2016] NSWLEC7

Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSW LEC118

Review of these cases indicates that a request for a variation under the provisions of Clause 4.6 is more onerous than previously required under SEPP 1. The case of Randwick v Micaul indicates that Council, as the consent authority, maintains a high level of discretion with regard to the level of justification required in order to support a variation request.

The following request provides an assessment of the proposed variation to the maximum building height with respect to the test methodology and requirements outlined within the relevant Case Law and requirements of NSW Councils.

#### Introduction and Description of the development standard to be varied

The Environmental Planning Instrument that applies to the land is Warringah Local Environmental Plan 2011 (WLEP). The subject site is zoned R2 Low Density Residential and a variation is sought to 'Clause 4.3 Height of buildings', specifically subclause (2) which states that the maximum height of a building is not to exceed the maximum height shown on the land as per the Height of Buildings map.

The maximum permitted building height as per the height of buildings map is 8.5m. The proposed dwelling provides a maximum height of 9.267m as a result of the increased finished floor heights to provide suitable levels for flooding.

The maximum height proposed requires a variation of 767mm to the maximum height of buildings therefore results in a percentage variation of 9.02%. The exception to the development standard is requested as a result of the flood level requirements.

#### What are the objectives of the development standard to be varied?

(1) The objectives of this clause are as follows—

- (a) to ensure that 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.

#### Compliance with the objectives of the development standard

The proposed maximum height of 9.267m for the section of the roof impacted does not impact upon the dwelling being able to achieve the objectives of the zone or the objectives of the development standard. The proposal is considered to have a positive impact on the streetscape character of the area and will enhance the streetscape character.

- (a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,

The dwelling continues to meet objectives of the building height controls as it is considered consistent with the site constraints and will not detract from the prevailing building height or desired future streetscape character of the area. The dwelling proposed is considered to be appropriate in terms of scale with the surrounding development, whilst considering the requirements of the flood impacts. The bulk and scale of the dwelling has been minimized as much as possible through appropriate ceiling heights and articulation. The bulk and scale of the proposal as viewed from the street and surrounding properties would be consistent with the dwellings within the area.

The proposed height of the addition maintains the provisions of the area, and it is anticipated that the addition will blend with existing and new development as that occurs.

(b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,

The overall height will not result in any detrimental visual impact when viewed from the street or adjoining property given the high quality design and articulation provided in order to soften the development.

The proposed dwelling is unlikely to have any detrimental impact upon views, as views to Manly Creek can be maintained from adjoining properties, and any views from opposite dwellings can be maintained along the sides of the dwelling over the recreational area.

The siting of the dwelling ensures that minimal impacts upon privacy are anticipated as the dwelling is appropriately offset from living and POS areas.

Shadows cast from the proposed dwelling and variation to the height do not have any significant impact upon the adjoining properties. The shadows cast as a result of the proposed development are over the recreational area and rear of the site. The neighboring property will maintain solar access to 50% of the POS despite the proposed height of the dwelling. Therefore, no impact upon solar access of adjoining properties results from the request to vary the height.

(c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,

The resultant building height variation will not result in any adverse environmental impacts. The variation to the overall height is unlikely to have any significant impacts upon adjoining properties or the wider streetscape. The dwelling is of a quality design that will enhance the visual and scenic quality of developments as viewed from Manly Creek and surrounding recreational areas.

(d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.

The proposed dwelling will maintain an attractive addition to the streetscape and will not have any detrimental impacts upon the visual amenity of the public places that surround the dwelling.

#### Compliance with the objectives of the zone

The objectives of the R2 Zone are:

- 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.

The proposed dwelling will not have any detrimental impact upon surrounding dwellings or the streetscape.

The dwelling has been designed to retain a high level of amenity for adjoining residents and the streetscape, and the high quality design will ensure the dwelling enhances the streetscape. Residents will still be able to carry out a range of activities, without affecting adjoining properties.

The design of the dwelling will ensure a high degree of internal and external amenity to suit the needs of the residents.

The landscape areas are able to be maintained within the front and rear setbacks to ensure the landscaped character of the area is maintained and the dwelling fits within the natural environment.

As the dwelling remains able to meet the requirements for low density residential living without any detrimental impact on the amenity of the surrounding sites, the development is found to achieve the objectives of the R2 Low Density Residential Zone.

Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

The requested variation to the maximum building height provision is considered to be a reasonable and appropriate design outcome for the following reasons:

- The development standard objectives and zone objectives are able to be maintained despite contravention to the numerical requirement.
- The proposed dwelling responds to the constraints on the site and maintains suitable ceiling heights and bulk to avoid any adverse impacts upon adjoining properties or the environment.
- The increase in height will not have an excessive impact upon the streetscape or adjoining properties and is considered to result in an appropriate outcome for the residents needs.
- The dwelling is well designed and will remain consistent with the existing and future character of Pittwater Road.
- As mentioned above, the building height variation is largely the result of higher finished floor levels as required for the flood impacts.
- The dwelling maintains the objectives of the control and development standard and will have minimal impact upon the adjoining properties or the streetscape.

Sufficient environmental planning grounds that are particular to the circumstances of the proposed development

There are sufficient environmental planning grounds in these circumstances to justify contravening the building height development standard. The development is not considered

to be overdevelopment of the site and sufficient grounds for the variation are provided below:

- The dwelling proposed is able to maintain the objectives of the R2 Low Density Residential Zone, as well as the objectives of development standards Clause 4.3 Height of buildings
- The bulk and scale of the dwelling is consistent with surrounding dwellings and the larger streetscape.
- The high quality design, with suitable materials and finishes ensures the dwelling remains well articulated and will further ensure the variation to the height of the dwelling will not result in any adverse environmental impacts to the adjoining properties or public domain.
- The proposal is a well considered, high quality design solution that sensitively responds to the site context and character and scale of the surrounding built form to ensure the privacy, view sharing and solar access of the subject site and surrounding properties is maintained.
- The dwelling appropriately responds to the issues of flooding on the site, with a design that responds to these requirements and has been suitably designed so as to minimize the bulk and scale as much as possible.

In determining if there are sufficient environmental planning grounds the Initial Action judgment considers that it is appropriate to apply the Objectives of Section 1.3 of the EP&A Act in order to demonstrate that the grounds exist to warrant a variation.

The objectives of 1.3 are listed along with a comment with respect to compliance in the table below.

Objective	Comment
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources.	This object is not relevant to this development.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment.	The proposal will facilitate an ecologically sustained development given that no negative impact on environmental and social considerations are present. This in turn will serve to offer the ongoing sustainment of the economic health of the area.
(c) to promote the orderly and economic use and development of land.	The proposed development will maintain the orderly and economic use of the land by providing a development and land use that is consistent with that envisaged by Council through zoning.
(d) to promote the delivery and maintenance of affordable housing.	This object is not relevant to this development.

(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats.	There is no anticipated impact upon any threatened species of ecological communities.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage).	This object is not relevant to this development.
(g) to promote good design and amenity of the built environment.	The proposed development is a high quality design that remains within the a suitable built form and scale to be aesthetically appropriate. The proposed development is considered to appropriately respond to the established and changing character of the development identified within both the immediate and broader context. The development maintains the amenity of the area through a suitable design.
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants.	The proposed development will comply with all relevant BCA codes and will promote the health and safety of occupants.
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State.	This object is not relevant to this development.
(j) to provide increased opportunity for community participation in environmental planning and assessment.	The proposed development has been publicly notified to meet with this objective.

Based on the above, the consent authority can be satisfied that the proposed development remains consistent with the Objects of the Act despite the variation to the minor height breach.

Does the development remain within the public interest?

There is overall public benefit in maintaining the development standards, however, there is also benefit to providing flexibility in specific circumstances. Strict compliance with the development standards would waive the opportunity to provide a superior design outcome that is in keeping with the height, scale and character of the surrounding built form.

Council approves development applications which depart from the building height development standard with larger percentage variations than that of the proposed, subject to satisfactory environmental performance. On balance, the proposed variation to the building height development standard is considered to be an appropriate use of the provisions of Clause 4.6.



### Conclusion

The contravention of the development standard in this case will not raise any issues of State or regional planning significance as it relates to local and contextual site conditions. The dwelling will provide for the housing needs of the residents by improving functionality and amenity while retaining the low density character of the built form which will in turn assist in meeting local housing demand.

Variations under the provisions of Clause 4.6 are understood to be permitted in circumstances where the non-compliant development is found to be able to meet with the objectives of the zone, but does not expressly need to result in a better outcome than a compliant proposal. In this case, the proposed height of the dwelling is considered to meet with the objectives of the zone and provides for a suitable design given the dwelling is located on a raised finished floor level.

Numerical provisions such as building height are considered to be in force as a guide to achieve the objectives of the control. In this instance the objectives of the building height control are achieved through the proposed siting of the dwelling, despite the increase in building height. The variation is not anticipated to result in any detrimental impact to surrounding properties and despite the minor variation is largely compliant with Councils controls.

It is requested that Council consider this variation due to the minimal impact upon the surrounding properties and the public places. The proposed height will not have any detrimental impact beyond that of the existing dwelling or a compliant proposal.