



STATEMENT OF ENVIRONMENTAL EFFECTS REPORT

**4.55 (1A) Modification to Development Consent No. 2021/2520
Alterations & additions to existing dwelling**

-No. 8 Mortain Avenue, Allambie Heights

September 2023

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1.0 INTRODUCTION

This Statement of Environmental Effects Report (SEE) has been prepared in support of an application to modify Development Consent No. 2021/2520 for alterations and additions to an existing dwelling located at No. 8 Mortain Avenue, Allambie Heights.

The modified proposal seeks consent for the following key amendments:

- Extend existing ground floor bedrooms 1, 2 and 3 by 1.5m to western rear
- Increase size of master bedroom ensuite
- Inclusion of WC on lower ground level

The site is zoned R2 Low Density Residential under the provisions of Warringah Local Environmental Plan 2011 (WLEP 2011) and the modified proposal remains permissible with consent.

The modified proposal has been assessed with the relevant controls of Warringah Development Control Plan 2011 and found to be generally compliant with the exception of a variation to the rear boundary setback control.

The report is intended to assist Northern Beaches Council in its assessment of the application and incorporates the following details:

- Description of site and context;
- Description of proposed development;
- Consideration of relevant planning considerations;
- Consideration of s4.15-Matters for Consideration under EP & A Act

The report should be read in conjunction with the following supporting material:

- Architectural Plans prepared by John Eglitis,
- Survey plan prepared by Stutchbury Jacques Pty Ltd

2.0 SITE DETAILS

The following details of the site's locational and physical characteristics are provided to assist Council in the assessment of the development application.

2.1 Site Location

The subject land is located at No. 8 Mortain Avenue, Allambie Heights as identified in **Figure 1**.

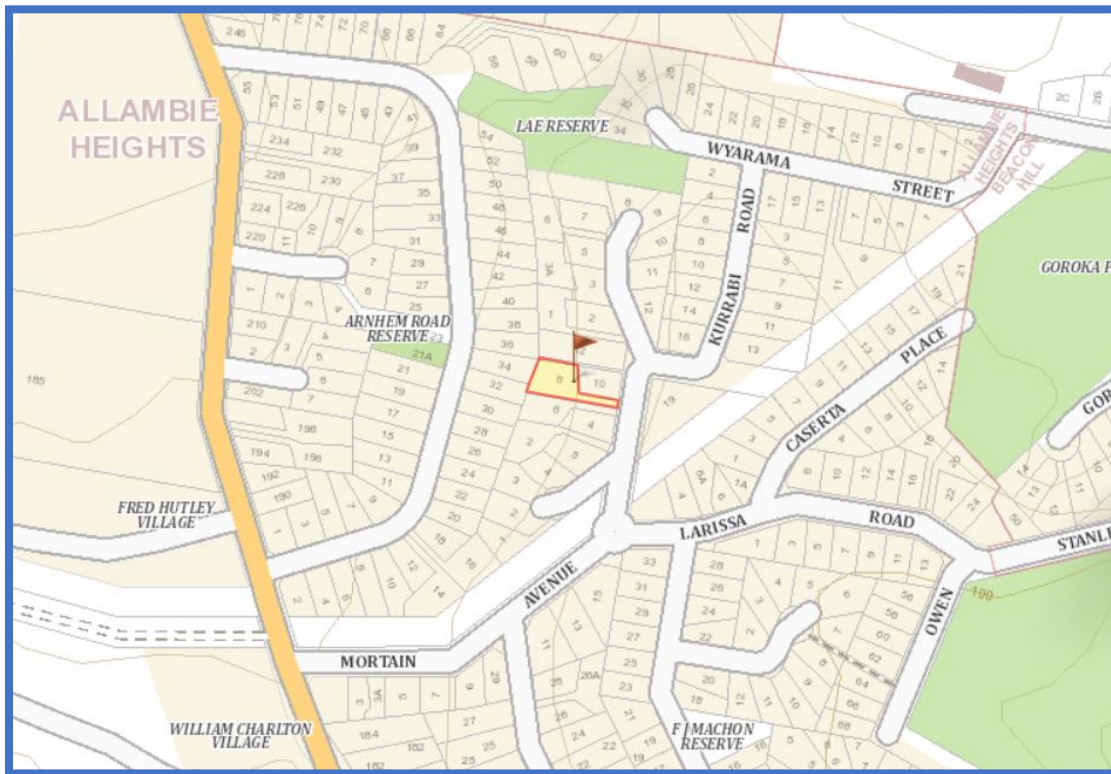


Figure 1-Site Locality Plan.

2.2 Site Description

The subject land is described as lot 3 of DP233014 and is a battle-axe shaped allotment.

The site has an area of 853.55m² and a frontage of 4.57m to Mortain Avenue.

The site is listed as Area A (<5 degree slope) and Area B (Flanking Slopes 5 to 25 degrees) on Council's landslip mapping systems.

The site is currently occupied by a single storey residential dwelling with underfloor area that is used for non-habitable purposes. The site comprises a front yard pool and extensive driveway from Mortain Avenue that is shared with No.6 Mortain Avenue. The site adjoins No.10 Mortain Avenue to the East, No.12 Mortain Avenue to the North and No. 6 Mortain Avenue to the South and Nos. 32, 34 & 36 Arnhem Road to the Western rear. The site directly adjoins a 1.83m wide drainage reserve on the immediate northern side.

The site has a medium slope from the western rear (124.70AHD) to the front of the property where the pool is located (121.66AHD) as illustrated on the Plan of survey prepared by Stutchbury Jaques Pty Ltd.

Figure 2 provides an aerial depiction of the site.



Figure 2-Aerial view of site

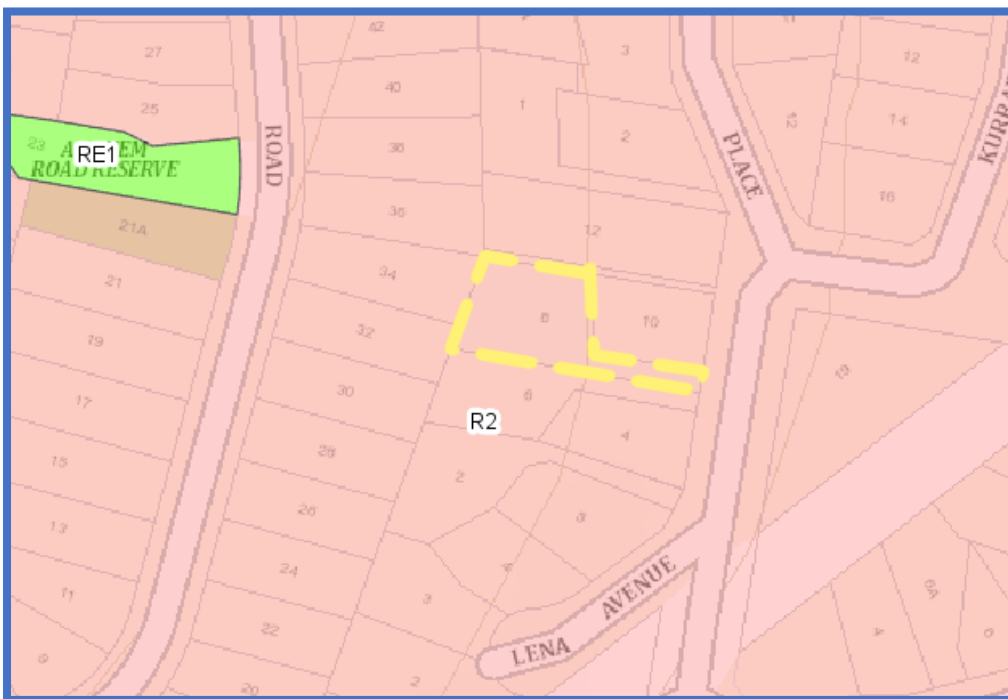


Figure 3-Landuse zoning map

2.3 Site Context

This site is located within a low-density residential area of Allambie Heights comprising a mixture of single, two and three storey dwellings on similar sized lots to the subject site. More recent developments in the general vicinity of the site comprise modern two storey designs sympathetic to the landscape such as being proposed.

3.0 PROPOSED DEVELOPMENT

The s4.55 (1A) Modification Application seeks consent to modify Development Consent No. 2021/2520 which was issued on 22 August 2022 for alterations and additions to an existing dwelling located at No. 8 Mortain Avenue, Allambie Heights.

The modified proposal seeks consent for the following key amendments:

- Extend existing ground floor bedrooms 1, 3 and 3 by 1.5m to western rear and retain existing dividing walls between bedrooms.
- Increase size of master bedroom ensuite.
- Inclusion of WC on lower ground level.

4.0 PLANNING CONSIDERATIONS

4.1 Section 4.55(1A) of Environmental Planning & Assessment Act 1979

The proposal is classified as a Section 4.55(1a) 'Modifications involving minimal environmental impact' application where minimal environmental impact is expected. Accordingly, the proposal has been assessed under Section 4.55 (1a) below:

Section 4.55(1A) - Modifications involving minimal environmental impact

Under Section 4.55 of the Environmental Planning and Assessment Act, 1979, Council, when considering a request to modify a Determination under this clause, must:

- (a) be satisfied that the development as modified is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and;
- (b) consult with any relevant authority or approval body, and
- (c) notify the application in accordance with the regulations;
- (d) consider any submissions made; and
- (e) take into consideration the matters referred to in Section 4.15 as are of relevance to the development the subject of the application.

The relevant matters relating to clause 4.55 are discussed below:

A. Substantially the same development

The development being modified is substantially the same development as the development for which consent was originally granted. The essence and substance of the modified development remains the same as the original approval being alterations and additions to a free standing dwelling house. The modified proposal, involving minor external and internal alterations represents 'substantially the same development'.

B. Consultation

Subject to Council decision. It is not anticipated that any authorities or bodies other than Fairfield Council would require consultation.

C. Notification

It is noted that the application is likely to be notified to adjoining neighbours.

D. Submissions

It is noted Council will consider any submissions made.

E. Relevant matters in Section 4.15

Section 4.15(1) EP&A Act outlines the matters a consent authority is to take into consideration that are of relevance to the development the subject of the development application. They are:

Section 4.15 (1) – the provisions of any environmental planning instrument.

- (i) Section 4.15 (1) – (a) (ii) any proposed instrument that is or has been the subject of public consultation under the Act - Draft environmental planning instruments
 - (ii) Section 4.15 (1) –(a) (iii) any development control plan
 - (iii) Section 4.15 (1) – (a) (iia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4
 - (iv) Section 4.15 (1) (a) (iv) any matters prescribed by the regulations
 - (v) Section 4.15 (1) – (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality
 - (vi) Section 4.15 (1) (c) The suitability of the site for the development
 - (vii) Section 4.15 (1) –(d) any submissions made in accordance with this Act or the regulations – as discussed above.
 - (viii) Section 4.15 (1) –(e) The public interest
- The assessment of the proposed development under Section 4.15(1) of the Environmental Planning and Assessment Act, 1979 has considered the community views. The development application was notified in accordance with the public participation requirements.

The development is consistent with the aims and design parameters contained in the WLEP 2011 and WDCP 2011 and other relevant Environmental Planning Instruments. As discussed throughout this report, the development will not result in any significant impacts on the amenity of adjoining premises and the streetscape. In addition, the development will allow for the orderly and economic development of the site.

4.2 State Environmental Planning Policy (Resilience & Hazards) 2021

Chapter 4-Remediation of Land

Pursuant to the above SEPP, a consent authority is unable to grant development consent unless it has considered whether the land is contaminated and, if so, whether the consent authority is satisfied that the land is suitable in its contaminated state or can be remediated to be made suitable for the purposes for which the development is proposed to be carried out.

The site displays no evidence of contamination and is suitable for its continued residential use. On this basis, the proposal is consistent with the relevant objectives and matters for consideration under Chapter 4 of the Resilience and Remediation SEPP.

4.3 State Environmental Planning Policy (Building Sustainability Index – BASIX) 2004

The approved alterations and additions were supported by a BASIX Certificate which is submitted with the application. The BASIX Certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal.

4.4 State Environmental Planning Policy (Biodiversity & Conservation) 2021

Chapter 2-Vegetation in Non-rural areas

State Environmental Planning Policy (Biodiversity and Conservation) in part seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the state, and to preserve the amenity of non-rural areas of the State through the appropriate preservation of trees and other vegetation.

No tree removal is proposed with this application as the modified development will be constructed upon cleared terrain. As such it is considered the proposal satisfies this chapter of the above SEPP.

4.5 Warringah Local Environmental Plan 2011

The subject land is zoned R2 Low Density Residential under the provisions of Warringah LEP 2011 and the modified proposal is permissible with the consent of Council. An assessment of the proposal with relevant clauses of WLEP 2011 is addressed below in **Table 1**.

WARRINGAH LOCAL ENVIRONMENTAL PLAN 2011		
Clause	Comment	Compliance
1.0-PRELIMINARY		
1.2 Aims of Plan	Proposal consistent with aims of the plan.	Yes
2.0-PERMITTED OR PROHIBITED DEVELOPMENT		
2.1 Land use Zones	The site is zoned R2 Low Density Residential.	Yes
2.3 Zone Objectives R2 Low Density Residential zone	The modified proposal continues to represent alterations and additions to a detached dwelling which is a permissible use in the zone and consistent with the objectives of the R2 Low Density Residential zone. It is considered that the proposed development achieves these objectives by: -Ensuring the proposal compliments the existing streetscape and the existing surrounding properties. -Retaining the existing amenity to the surrounding residences. -Providing a development that is compatible in terms of bulk, scale and height to surrounding properties.	Yes
4.0-PRINCIPAL DEVELOPMENT STANDARDS		
4.3 Height of Building 8.5m	Unchanged. Maximum height of 8.5m.	Yes
4.4 Floor Space Ratio	Not mapped with an FSR requirement.	Yes
5.0-MISCELLANEOUS PROVISIONS		
5.9 Preservation of trees and vegetation	Repealed.	Yes
5.10 Heritage Conservation	The site does not contain any European heritage items and not in the vicinity of surrounding heritage items or in a heritage conservation area.	Yes

6.0-ADDITIONAL LOCAL PROVISIONS		
6.1 Acid Sulfate Soils	The site is not mapped with high acid sulphate soils.	Yes
6.2 Earthworks	There is minimal excavation involved in the proposal as the works. No adverse environmental impacts foreseen.	Yes
6.3 Flood Planning	The site is not mapped as flood prone land.	Yes
6.4 Development on sloping land	The site is mapped as part Area A - Collaroy Plateau Area Flanking Slopes 5° and part Area B Flanking Slope 5 to 25. As such a Geotechnical Assessment Report prepared by Ascent Geotechnical Consulting is submitted in support of the proposal.	Yes
6.5 Coastline hazards	The site is not mapped in an area of coastline hazard.	Yes

Table 1-Warringah LEP 2011

4.6 Warringah Development Control Plan 2011

The modified dwelling has been generally designed in accordance with Warringah Development Control Plan 2011. A compliance table of relevant controls under Warringah DCP 2011 is contained in **Table 2** below.

WARRINGAH DEVELOPMENT CONTROL PLAN 2011			
CONTROLS	REQUIRED	PROVIDED	COMPLIANCE
PART B –BUILT FORM CONTROLS			
B1 Wall Heights	7.2m	Max Wall height - 7.437m	No increase in height.
B2 No of Stories	N/A	N/A	N/A
B3 Side Boundary envelope	Building envelope 45 degrees from 4m. Eaves up to 675mm are an allowable encroachment.	The proposals eaves, gutters and downpipes will not infringe upon the 45 degrees control as the dwelling has been designed to be setback far enough from the adjoining side boundaries.	Yes
B4 Site Coverage	33.3% - the total building footprint(s) must not cover more than 33.3% of the site area	Proposed additions will not result in the dwelling occupying more than 33.3% of the site.	Yes
B5 Side Boundary setbacks	0.9m	South – >900mm North – 1.34m	Yes
B6 Merit assessment of side boundary setbacks	N/A	N/A	N/A
B7 Front Boundary setbacks	Primary-6.5m	8.61m (unchanged)	Yes

B8 Merit assessment of front boundary setbacks	N/A	N/A	N/A
B9 Rear boundary setback	6.0m	3.7m-5.3m	No Variation requested
B10 Merit assessment of rear setbacks	N/A	N/A	N/A
B11 Foreshore Building Setback	N/A	N/A	N/A
B12 National Parks Setback	N/A	N/A	N/A
B13 Coastal Cliffs setback	N/A	N/A	N/A
B14 Main Roads Setback	N/A	N/A	N/A
B15 Minimum floor to ceiling height	N/A	N/A	N/A
PART C-SITING FACTORS			
C2 Traffic, access & safety	Vehicle crossing to be provided in accordance with Council's vehicle crossing policy.	Access retained via existing battle-axe driveway from Mortain Avenue.	Yes
C3 Parking Facilities	Garages not to visually dominate façade. Parking to be in accordance with AS/NZS 2890.1.	The existing garage is well integrated into the dwelling front façade and is not proposed for any significant changes.	Yes
C4 Stormwater	To be provided in accordance with Council's Stormwater Drainage Design Guidelines for Minor Developments & Minor Works Specification.	The proposal is supported by a detailed stormwater design plan prepared by Nastasi & Associates which provides for all collected stormwater to discharge to the public drainage system in Mortain Avenue in accordance with Council requirements.	Yes
C6 Building over or adjacent to constructed Council drainage easements	N/A	N/A	N/A
C7 Excavation & landfill	Site stability to be maintained.	No excavation proposed.	Yes
C8 Demolition & construction	Waste Management Plan required.	Waste Management Plan provided.	Yes
C9 Waste Management	Waste storage area to be provided.	There is sufficient area on site for waste and	Yes

		recycling bins behind the building line.	
PART D-DESIGN			
D1 Landscaped open space & bushland	Minimum 40% (341.42m ²) landscaped area required.	Proposal provides for a landscaped area of 340.10m ² which is 39.84%.	Yes with merit
D2-Private Open Space	Dwelling houses with three or more bedrooms Min 60m ² with min dimension 5m.	Existing dwelling provides for greater than 60m ² of private open space. The open space is directly accessible from the living rooms.	Yes
D3 Noise	Mechanical noise is to be attenuated to maintain adjoining unit amenity. Compliance with NSW Industrial Noise Policy Requirements.	N/A	N/A
D4 Electromagnetic radiation	N/A	N/A	N/A
D5 Orientation and Energy Efficiency	Dwellings to be orientated to receive northern sun. Appropriate construction to enhance thermal properties and ventilation/natural cooling Compliance with SEPP (BASIX) requirements.	The modified dwelling will receive good solar access throughout the year. A BASIX certificate has been issued and forms part of the submission to Council.	Yes
D6 – Access to sunlight	The controls require that sunlight to at least 50% of the private open space of both the subject and adjoining properties private open space receives not less than three hours sunlight between 9am – 3pm on 21 June winter solstice.	The proposal has been suitably designed with regard to the site orientation and adjoining properties to maintain at least 3 hours of solar access to private open space and living areas on the winter solstice.	Yes
D7 Views	View sharing to be maintained.	The proposed addition will not result in significant view losses for adjoining properties to the western rear of the site. A view-loss analysis has been included in	Yes

		Appendix 1 of this report justifying the proposed works in relation to neighbouring properties views.	
D8 Privacy	This clause specifies that development is not to cause unreasonable overlooking of habitable rooms and principle private open space of adjoining properties.	The proposal has been designed to limit visual privacy impacts via minimising overlooking opportunities towards adjoining properties. Where elevated living room areas occur, the windows have been re-orientated towards the front and back of the dwelling where practical to prevent overlooking. The south facing windows also have a minimum sill height of 1.6m and the rear western window has screening provision.	Yes
D9 Building Bulk	This clause requires buildings to have a visual bulk and architectural scale that is consistent with structures on nearby properties & not to visually dominate the street.	The modified dwelling is compatible with existing surrounding development. The dwelling is well articulated through the use of varied setbacks, external material selections and balconies. The proposal provides for appropriate setbacks to the side and rear boundaries to ensure appropriate visual separation.	Yes
D10 Building Colours and materials	External finishes and colours sympathetic to the natural and built environment.	External finishes selected to be compatible with the existing surrounding development and the natural environment.	Yes

D11 Roofs	The LEP requires that roofs should not dominate the local skyline.	The proposal provides for a conventional pitch roof form on the first floor level that is in keeping with the existing roof form of the dwelling. The roof form is compatible with the variety of roof forms in the locality.	Yes
D12 Glare & Reflection	Glare impacts from artificial illumination minimised. Reflective building materials to be minimized.	The proposal will not result in unreasonable glare or reflection.	Yes
D13 - Front Fences and Front Walls	Front fences to be generally to a maximum of 1200mm, of an open style to complement the streetscape and not to encroach onto street.	N/A	N/A
D14 – Site Facilities	Garbage storage areas and mailboxes to have minimal visual impact to the street. Landscaping to be provided to reduce the view of the site facilities.	No changes proposed.	Yes
D15 – Side and Rear Fences	Side and rear fences to be maximum 1.8m and have regard for Dividing Fences Act 1991.	N/A – no new fencing proposed.	N/A
D16 Swimming Pools and Spa Pools	Pool not to be located in front yard or where site has two frontages, pool not to be located in primary frontage. Siting to have regard for neighbouring trees.	Existing front yard swimming pool to be retained.	Yes
D17 Tennis Courts	N/A	N/A	N/A
D18 Accessibility	Safe and secure access for persons with a disability to be provided where required.	N/A	N/A
D19 – Site Consolidation in the R3 and IN1 Zone	N/A	N/A	N/A
D20 – Safety and Security	Buildings to enhance the security of the community. Buildings are to provide for	The additions will provide a good outlook for the	Yes

	casual surveillance of the street.	dwelling. The proposed works will largely be non-discernible from the Mortain Avenue streetscape.	
D21 – Provision and Location of Utility Services	Utility services to be provided.	Existing facilities on site.	Yes
D22 – Conservation of Energy and Water	A BASIX Certificate is required.	Original Basix Certificate submitted.	Yes
D23 – Signs	Building identification signage to be appropriate for proposed use and not to impact on amenity of surrounding locality. Signs not to obscure views or potentially hazardous road features or traffic control devices.	N/A	N/A
E1 Private Property Tree Management	Arboricultural report to be provided to support development where impacts to trees are presented.	Proposal does not require the removal of any trees.	Yes
E3 Threatened species, populations, ecological communities	Not identified on map.	N/A	N/A
E4 – Wildlife Corridors	Not identified on map.	N/A	N/A
E5 – Native Vegetation	Not identified on map.	N/A	N/A
E6 - Retaining unique environmental features	Unique or distinctive features within a site to be retained.	There are no distinctive environmental features on site.	Yes
E7 Development on land adjoining public open space	No adjoining open space.	N/A	N/A
E8 Waterways and Riparian Lands	N/A	N/A	N/A
E9 – Coastline Hazard	Not identified on map.	N/A	N/A
E10 Landslip Risk	Identified as landslip risk A & B.	Original Geotechnical Assessment Report submitted in support of proposal.	Yes
E11 Flood Prone Land	Site is not affected by flooding	N/A	N/A

Table 2-Warringah DCP 2011

WDCP Non-Compliance Justification.**Part B 'Built Form Controls' B9 - Rear boundary setback.**

Comment: The modified proposal will result in the modified dwelling having a minimum rear boundary setback ranging from 3.7m to 5.3m as measured to the adjoining boundary shared with No.34 Arnhem Road which does not comply with Council's 6m setback control. However, this non-compliance is considered justifiable for the following reasons:

- The rear setback variation relates to ground level low intensity use bedrooms with no additional overlooking or overshadowing impacts created.
- There is a separation distance of approximately 15 metres between the modified dwelling and existing dwelling on No. 34 Arnhem Road.
- The front and side setbacks comply with Council's controls.
- The proposal achieves adequate landscaping area;
- Consideration is sought to the difficult site constraints relating to the battle-axe shaped allotment and steep topography, which makes achieving rear and front setback compliance difficult.

5.0 SECTION 4.15 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

(a)(i) – The Provisions of any Environmental Planning Instrument

Statutory assessment of the proposal has been previously addressed in Section 4.0. The site is zoned R2 Low Density Residential under Warringah Local Environmental Plan 2011 and the modified proposal is permissible with development consent.

The proposal is also consistent with relevant State Environmental Planning Policies.

(a)(ii) Any proposed Draft Environmental Planning Instrument subject of public consultation

There are no applicable Draft Planning instruments subject to public consultation.

(a)(iii) – The Provisions of any Development Control Plan

As discussed earlier in the report, the site is subject to assessment under Warringah Development Control Plan 2011. The modified proposal complies with relevant objectives and controls of WDCP 2011 which are detailed in Section 4.6 of this report.

(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

The proposal is consistent with relevant Regulations.

(a)(v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979)

The proposal is not inconsistent with any coastal zone management plan.

(b) – The likely impacts of that Development

Context and Setting

This site is located within a low-density residential area of Allambie Heights comprising a mixture of single and two storey dwellings with some three storey dwellings. The modified development remains of a similar height, bulk and scale to other dwellings in the locality. On this basis, we submit that it is compatible with the low-density character of the surrounding area.

Building Design and Appearance

The modified proposal is indicative of the existing and desired future character of the area, with sufficient setbacks to adjoining lots and a dwelling design that will blend into the existing Mortain Avenue streetscape. The building facades remain highly articulated to further develop the character of the streetscape and visual amenity through building design, detailing, colour and finish.

Amenity impacts

The modified dwelling has been carefully sited and designed to ensure no adverse amenity impacts upon adjoining properties in respect to visual and acoustic privacy, overshadowing and view loss. The minor extension of bedrooms to the rear is not foreseen to create any additional impacts on surrounding properties.

Social & Economic Impacts

The social and economic impacts of the development are a positive outcome for the local area with respect to modernizing housing supply for the community.

Access and Parking

The proposal seeks to maintain the existing garage as shown on the South elevational plan with no new works proposed to the driveway. No traffic impacts are foreseen to the surrounding area and the existing car parking arrangements will adequately service the development without any adverse impacts upon the local road network.

Utilities Services

Reticulated utilities in the form of electricity, water, sewer and telecommunication services can be provided to service the proposed development in accordance with the relevant service provider requirements.

Stormwater impacts

The proposal seeks to connect to the existing stormwater system in Mortain Avenue as detailed on the concept stormwater plan prepared by Nastasi & Associates.

(c) – Suitability of the Site for Development

The site is of a suitable size and configuration to accommodate the modified works. The subject site is zoned R2 Low Density Residential and the construction of the alterations and additions in this zone is permissible with the consent of Council. The resultant modified dwelling is of a bulk and scale that is consistent with the existing surrounding development. On this basis, the site is considered suitable for the proposed development.

(d) – Any submissions made in accordance with this Act or Regulations.

Any submissions received will be considered by Council.

(e) – Public Interest

The proposal will provide for housing needs of the community within a low-density residential environment and is in the public interest.

6.0 CONCLUSION

The subject land is zoned R2 Low Density Residential under Warringah Local Environmental Plan 2011 and the modified dwelling remains permissible with the consent of Council.

The proposal is furthermore generally consistent with relevant matters for consideration under Warringah Development Control Plan 2011 on planning merit grounds.

The modified proposal provides no additional amenity impacts to adjoining and adjacent residential properties and is in keeping with the existing and envisaged low density residential character of the locality.

The proposal is assessed as being satisfactory, having regard to the matters for consideration contained within Section 4.15 of the EP&A Act 1979.

Accordingly, it is recommended that Council support the modified proposal and grant development consent subject to conditions of consent.