

STATEMENT OF ENVIRONMENTAL EFFECTS



SITE: Lot 402 DP 14137
21 Condoover Street
North Balgowlah

APPLICANT: Drafting Help

PROPOSAL: Alterations and additions to an existing two storey dwelling and an inground swimming pool.

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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 alterations and additions to an existing two storey dwelling containing three (3) bedrooms, lounge and dining rooms along with a wrap-around deck. This report is based upon plans prepared by Drafting Help.

The proposed works include:

Lower level:

- Removal of rear terrace and exterior stairs
- Rear extension and internal reconfiguration to allow for internal stairs, garage, bed 4, bathroom, deck and pool area

Ground floor:

- Enclosing existing rear deck area
- Rear extension and internal reconfiguration to allow for internal stairs from lower level, mud room, larger open planned kitchen, living & dining space as well as a large rear deck and exterior stairs
- Construction of a balcony off bed 1

The subject site is located on the eastern side of Condover Street. The allotment is generally rectangular in shape with a frontage of 12.65m, an average depth of 45.69m and a total land area of 696.4m². The lot currently contains a two storey dwelling and ancillary structures that are to be retained as part of the proposed development.

The lot has a significant fall to the rear boundary. All necessary services available on site and drainage is to be directed to the existing approved system via a rainwater tank.

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

The following sections of this statement address the likely impact of the proposal on the environment.

ENVIRONMENTAL EFFECTS

The following sections address the matters for consideration as listed in Part 4 Section 4.15 of the Environmental Planning & Assessment Act 1979. A comment is provided against each relevant matter.

(a)(i) Relevant environmental planning instruments

State Environmental Planning Policy (Building Sustainability Index) 2004

The proposed development has been designed with a high degree of consideration toward energy efficiency and sustainability. A BASIX Certificate has been prepared

with the requirements to be implemented during construction and prior to occupation. The development is considered to achieve the aims and objectives of this policy.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Clause 4.6 Contamination and remediation to be considered in determining development application

- (1) *A consent authority must not consent to the carrying out of any development on land unless—*
- (a) it has considered whether the land is contaminated, and*
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

The subject site is within an existing area historically utilised for residential purposes. No previous land uses are known to have occurred on the site that would result in potential land contamination. No further assessment is considered necessary in this instance.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Division 17 Roads & Traffic

Subdivision 2 – Development in or adjacent to road corridors and road reservations

2.118 Development with frontage to classified road

- (1) *The objectives of this section are—*
- (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
 - (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*
- (2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*
- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
 - (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
 - (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to*

ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.

The subject site is not located within proximity to a classified road, and does not have a frontage or common boundary with the classified roadway. No further assessment is anticipated in this regard.

Warringah Local Environmental Plan 2011

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

The proposed development is ancillary development to the existing dwelling on the allotment. A “dwelling house” is defined as “a building containing only one dwelling”.

The identified zone permits the construction of a ‘dwelling’ and therefore ancillary development subject to development consent from Council.

Clause 2.3 Zone objectives and land use table

The objectives of the R2 Zone 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.*

The proposed development is for a low-density residential development, being compatible with the existing and future character of the locality. The proposed alterations and additions are designed to complement the amenity for adjoining residents whilst considering the natural constraints of the site.

The proposed dwelling is considered to meet the relevant objectives of the R2 zone.

Clause 4.3 Height of Buildings

| <i>Requirement</i> | <i>Provision</i> | <i>Compliance</i> |
|--------------------|------------------|--------------------------|
| 8.5m ridge height. | 8.62m | No – Refer to Clause 4.6 |

Clause 4.6 Exceptions to Development Standards

Please refer to Appendix 1.

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 or located within proximity of heritage items.

Clause 5.11 Bush fire hazard reduction

The subject site is identified to be bushfire prone land on Council's maps. Please refer to the attached Bushfire Assessment Report.

Clause 5.21 Flood planning

The subject site is not known to be located within a flood planning area.

Clause 6.1 Acid Sulfate Soils

The subject property is not identified as being affected by Acid Sulphate Soils.

Clause 6.2 Earthworks

Earthworks are required to site the proposed alterations and additions due to the topography of the site. The extent of earthworks is not considered excessive for the site. All earthworks will be suitably battered and/or retained to ensure structural adequacy and minimal impact on the adjoining properties.

* * *

Conclusion with respect to LEP requirements

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

(a)(ii) Relevant draft environmental planning instruments

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

(a)(iii) Relevant development control plans

Warringah Development Control Plan 2011

PART B BUILT FORM CONTROLS

| <i>Requirement</i> | <i>Provision</i> | <i>Compliance</i> |
|---|---|-------------------|
| <u>B1 – Wall heights</u> Max. wall height 7.2m existing ground to upper ceiling. | <7.2m max. wall height. | Yes |
| <u>B2 - Number of Storeys</u> Max. no. storeys shown on DCP No. Storeys map – 2 storeys. | 2 storeys retained. | Yes |
| <u>B3 - Side Boundary Envelope</u> Side boundary envelope 45° & 4m or 5m from existing ground (refer DCP Map) Encroachment of the fascia, gutters, eaves permitted. | Dwelling additions within existing building envelope. | Yes |
| <u>B4 - Site Coverage</u> Site coverage as per Site Coverage Map | N/A – site not mapped. | N/A |
| <u>B5 – Side Boundary Setbacks</u> As per DCP Side Boundary Setbacks map: - 0.9m. | Min. 0.891m | No – see below. |
| <u>B6 - Merit Assessment of Side Boundary Setbacks</u> for sites shown on map. | N/A – site not mapped as 'Merit Assessment' | N/A |
| <u>B7 – Front Boundary Setbacks</u> 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 | Front setback unchanged by proposal. Proposed ground floor balcony within articulation zone. N/A | Yes N/A |
| <u>B8 - Merit Assessment of Front Boundary Setback</u> for sites shown on map. | N/A – site not mapped 'Merit Assessment'. | N/A |
| <u>B9 - Rear Boundary Setbacks</u> As per DCP Rear Boundary Setbacks map: - 6m. | 9.137m to proposed works. | Yes |

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|---|--|-----|
| <u>B10 - Merit Assessment of Rear Boundary Setback</u> for sites shown on map. | N/A – site not mapped as 'Merit Assessment'. | N/A |
| <u>B11 - Foreshore Building Setback</u> As per the map – 15m | N/A | N/A |
| <u>B12 - National Parks Setback</u> As per the map - 20m | N/A | N/A |
| <u>B13 - Coastal Cliffs Setback</u> As per map. | N/A | N/A |
| <u>B14 - Main Roads Setback</u> As per map. | N/A | N/A |

Variation request

Side setback – Council's DCP requires dwellings to be provided with a 0.9m side setback as per the DCP Side Setbacks map. The proposed addition provides a side setback of 0.891m, thus requiring a minor variation to this control.

It is understood that the setback controls are designed to ensure that the proposed development is compatible with the surrounding development whilst minimising the impact on the streetscape and adjoining developments.

The proposed 9mm encroachment into side setback spans a total of 9.67m in length and therefore will pose no detrimental visual, amenity or solar access impacts to the streetscape or adjoining properties. Existing and proposed landscaping will allow for appropriate screening of the development from the southern neighbour.

Despite the required minor variation it is anticipated that the proposal will have no greater impact than that of a compliant proposal and will be able to meet the objectives of the clause. Therefore a variation to the side setback requirement is considered to be appropriate for the subject site and should be supported in this instance.

PART C SITING FACTORS

| <i>Requirement</i> | <i>Provision</i> | <i>Compliance</i> |
|---|--|-------------------|
| <u>C2 – Traffic, Access and Safety</u> Suitable vehicular access from a public road. | Proposed garage to enhance vehicular access to existing dwelling. | Yes |
| <u>C3 – Parking Facilities</u> Garage/carport integrated into house design. | Proposed garage materials and roofing to be of similar style to the existing dwelling. | Yes |
| Laneways to provide rear access where possible. | N/A | N/A |

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| Parking not to obscure views from dwelling to street. | No loss of existing views to the street anticipated due to topography of the lot and garage siting. | Yes |
| Garage/carport opening max. 6m or 50% building width, whichever lesser. | Proposed garage door – 5.5m wide | Yes |
| 2 spaces per dwelling. | 2 spaces provided in proposed garage & driveway. | Yes |
| <u>C4 – Stormwater</u> Suitable stormwater system for each site. | Stormwater to be directed to the existing drainage system. | Yes |
| <u>C5 – Erosion and Sedimentation</u> Erosion and Sedimentation controls to be in place. | Erosion and sediment control plan provided with the subject DA | For Council's consideration |
| <u>C7 – Excavation and Landfill</u> Cut and fill not to impact neighbours. | Cut and fill proposed with appropriate boundary setbacks and provided with control measures to prevent impacting neighbours. | Yes |
| Clean fill only. | No imported fill proposed. | N/A |
| <u>C9 Waste Management</u> Waste Management Plan to be provided. | Provided. | Yes |
| Bin storage area to be allocated. | Adequate area remains available on site out of public view. | Yes |

PART D DESIGN

| <i>Requirement</i> | <i>Provision</i> | <i>Compliance</i> |
|---|-----------------------------------|-------------------|
| <u>D1 – Landscape Open Space and Bushland Setting</u> Landscaped open space as per map soft landscape with min 2m width. Subject site = 40% | 44% maintained by proposed works. | Yes |
| <u>D2 – Private Open Space</u> | | |

| | | |
|--|---|---|
| <p>POS area = 1-2 bedrooms – 35m² min 3m width. 3+ bedrooms – 60m² min 5m width. Direct access from living area.</p> <p>POS located behind building line. Maximise solar access & privacy.</p> | <p>N/A</p> <p>60m² maintained in rear yard. Due to topography of site and existing location of living area, POS access is via deck stairs from living room. Appropriate outcome considered to be achieved. POS located in rear yard.</p> <p>Reasonable solar access remains available due to orientation and sufficient setbacks.</p> | <p>N/A</p> <p>Yes</p> <p>Merit consideration.</p> <p>Yes</p> <p>Yes</p> |
| <p><u>D6 – Access to Sunlight</u> Consider solar access & ventilation in siting of dwelling.</p> <p>3hrs sunlight to 50%POS and glazed areas to living rooms between 9am & 3pm.</p> | <p>Proposed works appropriately sited considering existing development, orientation and topography of the subject site.</p> <p>Proposed and adjoining POS and living areas to maintain appropriate level of solar access.</p> | <p>Yes</p> <p>Yes</p> |
| <p><u>D7 – Views</u> View sharing to be considered.</p> | <p>No loss of views is anticipated due to setbacks, height and siting of proposed works.</p> | <p>Yes</p> |
| <p><u>D8 – Privacy</u> Maintain privacy to adjoining properties.</p> | <p>Privacy to adjoining properties maintained. Windows appropriately offset and setback from neighbours to minimise opportunities for overlooking. Suitable setbacks and landscaped area provided to maintain privacy. Rear deck provided with privacy screen to side boundary and large setback to rear boundary in order to minimise opportunities for overlooking.</p> | <p>Yes</p> |

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| <p><u>D9 – Building Bulk</u> Avoid large areas of continuous wall planes.</p> <p>Max. fill 1m and to remain within building footprint.</p> <p>Minimise excavation.</p> <p>Orientate dwelling to street.</p> <p>Use articulation and materials to reduce building mass.</p> | <p>Articulation provided to proposed works to ensure dwelling does not have an excessive visual bulk.</p> <p>Fill contained within building footprint <1m.</p> <p>Excavation minimised as much as practical for the topography of the subject site. Appropriate control measures implemented.</p> <p>Existing dwelling continues to address access path and entry from street. Proposed bed 1 balcony enhances dwelling frontage to street.</p> <p>Suitable articulation and materials to the existing dwelling and proposed additions ensure the building mass is suitable for the site and surrounding locality.</p> | <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> |
| <p><u>D10 – Building Colours and Materials</u> Colours finishes to blend with natural setting.</p> | <p>Materials and colour schedule provided for Council's consideration.</p> | <p>Yes</p> |
| <p><u>D11 – Roofs</u> Pitch to compliment streetscape. Varied roof forms to be provided. Eaves required.</p> | <p>Proposed roofing and eaves to match existing.</p> | <p>Yes</p> |
| <p><u>D12 – Glare and Reflection</u> Materials to minimise glare.</p> | <p>Non-reflective materials proposed.</p> | <p>Yes</p> |
| <p><u>D13 – Front fences and Front walls</u> Front fences 1.2m. Solid fences to be articulated and setback for landscaping.</p> | <p>Fencing unchanged by proposal.</p> | <p>Yes</p> |

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| Provide casual surveillance (unless excessive noise requires blocking). Gates to remain in boundary when open. | | |
| <u>D14 – Site facilities</u> Site Facilities – bin storage, clothes drying etc to be provided | Rear yard continues to provide adequate area for site facilities as detailed on the proposed site plan. | Yes |
| <u>D15 – Side and Rear Fences</u> Side & Rear boundary fencing max. 1.8m measure from low side (can be averaged for sloping sites to allow regular steps). | Side and rear fencing unchanged by proposal. | Yes |
| <u>D16 – Swimming Pools & Spas</u> Not within primary setback (2ndry setback OK for corner sites). Appropriate setback from trees. | Pool located in rear yard. Setback from existing trees provided. | Yes Yes |
| <u>D19 – Site Consolidation requirements for the R3 & IN1 Zones</u> Development to not result in adjacent allotments that have areas that would render such allotment(s) incapable of being developed in accordance WLEP. POS may extend to a minimum of 3.5 metres from a side boundary. Basement carparking structures – min. 2m from side boundary, and <1m above NGL. | N/A to R2 Zone. | N/A |
| <u>D20 Safety and Security</u> Casual surveillance of street & suitable lighting. | Casual surveillance of street access enhanced by rear extension and bed 1 balcony by introducing more areas for surveillance. View to entry approach remains | Yes |

| | | |
|--|--|-----|
| | available from existing dwelling windows. No entrapment areas evident. | |
| <u>D22 – Conservation of Energy and Water</u> Design for water and energy conservation. | BASIX Certificate provided. | Yes |

PART E THE NATURAL ENVIRONMENT

| <i>Requirement</i> | <i>Provision</i> | <i>Compliance</i> |
|--|---|----------------------------|
| <u>E3 – Threatened species, population, ecological communities</u> Minimise tree removal and protect remaining trees. | Few trees are required to be removed in order to site the proposed development. The proposed development is not anticipated to impact upon the landscape character of the area, as replacement planting and additional landscaping will be provided upon completion of the construction phase. | For Councils Consideration |
| Flora & Fauna assessment if native veg >100m ² to be removed or veg removed from site in last 5 years. | <100m ² of vegetation proposed to be removed | N/A |
| <u>E7 – Development on land adj. public open space</u> Development adj public reserve to compliment character of reserve. Casual surveillance of public reserve. | Proposed alterations and additions are in keeping with existing dwelling which is considered to complement the character of the reserve. | Yes |
| Landscaping to screen development | Existing and proposed landscaping can appropriately screen development. | Yes |
| <u>E8 – Waterways and Riparian Land</u> | N/A | N/A |

| | | |
|--|---|-----|
| Waterway Impact Statement for works in waterway. Riparian Land Group A & Group B have specific requirements. APZ not to extend into such land. | | |
| <u>E9 - Coastline Hazard</u> | N/A | N/A |
| <u>E10 - Landslip Risk</u> As per the map. Geotech required where indicated in DCP. | Landslip Risk identified as Area A towards the front of site and Area B towards the rear of site. Geotech Report to be provided if deemed necessary by Council. | Yes |
| <u>E11 – Flood Prone Land</u> Flood Risk map indicates level. Requirements outlined in DCP. | N/A | N/A |

* * *

Conclusion with respect to DCP Requirements

The proposed alterations and additions to an existing dwelling are 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 development will be compatible in terms of height, bulk and scale with surrounding developments within the area.

The siting of the proposed works provides appropriate 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 retains a variety of roof forms and elements and contains an entry feature. In this way, the proposal maintains a clear definition of the entry and provides varied shadow lines due to the different construction elements and finishes.

Sedimentation Control

Earthworks are required to site the proposed alterations and additions. The level of site works is not considered excessive for the site. 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 and is close to local commercial, retail and transport facilities. The existing road network provides easy access to all locations.

The alterations and additions to an existing dwelling, the subject of this application, can be constructed with all services necessary and has been designed to suit site constraints and the character of the surrounding locality.

The residential use of the site 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 the proposal can satisfy the objectives of all relevant planning instruments and development control plan, approval of the subject dwelling 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 Local Environmental Plan 2011, and can satisfy the

objectives of the instrument. The proposal also generally satisfies the objectives of Council's Development Control Plan 2011.

It is considered that the alterations and additions to an existing dwelling will complement and blend with the existing, and likely future character of this section of North Balgowlah, being an area containing a transitional blend of housing from differing era's of single and two storey construction. The proposal is not expected to have an adverse impact on the natural or built environment.

A handwritten signature in dark ink, appearing to read 'Lgibson', followed by a long horizontal flourish.

Lily Gibson
Student Town Planner
Urban Planning & Building Consultants
23 March 2022

APPENDIX

Appendix 1 – Clause 4.6 Variation Overall Height

It is requested that Council consider the following request for a variation under the provisions of Clause 4.6 of Warringah Local Environmental Plan 2011 (WLEP2011) during assessment of this application:

Warringah Local Environmental Plan 2011

4.6 Exceptions to development standards

- (1) The objectives of this clause are as follows—*
- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Clause 4.6 of the LEP - Exceptions to development standards provides the opportunity for Council to vary the controls based on the merits of the application. It is considered that the current application satisfies the Clause 4.6 criteria in the LEP, and therefore should be supported, as detailed below.

- (2) 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. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

The overall height development standard is not expressly excluded from the operation of Clause 4.6.

- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating—*
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

As discussed below, it is unreasonable and unnecessary to require compliance with the overall height control as all key Clause 4.6 requirements are satisfied despite the non-compliance.

The proposed building height slightly exceeds the maximum permitted building height for the development by 120mm. It is considered that the application, and in particular the proposed building height, should be supported as:

The subject site is zoned 'R2 Low Density Residential' under Clause 2.1 of the WLEP2011.

The objectives of the 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 development being compatible with the existing and future character of the locality. The proposed development has been designed to meet the day to day needs of the residents and is provided with appropriate services and facilities. Furthermore, the development is designed to provide a high level of amenity for adjoining residents whilst considering the amenity of the site and surrounding areas.

The proposal, including the building height variation, is consistent with the objectives of the R2 Low Density Residential zone in that the proposal will continue to provide low-impact residential development. The proposed development is considered to be compatible with the existing and future character of the locality.

Therefore, the proposal is considered to meet the objectives of the R2 Zone.

The objectives of Clause 4.3 are:

- (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.*

The objective of this control is understood to be a measure to ensure the dwelling does not have an unreasonable impact on adjoining properties or the streetscape by way of overshadowing, overlooking, visual bulk or scenic quality.

The 120mm non-compliance is the direct result of the topography of the allotment with a significant fall through the site, making it difficult to site the proposed addition without a level of non-compliance to the height provisions. It is considered that some level of variation is anticipated on allotments such as the subject site where the allotment has a fall to the rear and the need to site proposed works to match existing floor levels and rooflines. Thus providing a compliant proposal would detrimentally impact the amenity of the dwelling design through the insertion of steps in the floorplates.

The proposed addition has been designed with consideration given to the existing topography on the site and the existing overall streetscape character. The proposed design incorporates internal works to the existing dwelling to modernise the dwelling and increase the lifespan of the dwelling.

The required variation will not detrimentally impact on the amenity of the adjoining properties given the articulated design, more than adequate side and rear

setbacks and building separation distances along with the orientation of the site which will allow for a reasonable level of solar access to living areas and private open space areas of the adjoining properties. The windows proposed to the ground floor extension are not likely to provide opportunities for overlooking as they are appropriately designed, setback and offset. The shadows cast by the proposed additions will not have an overall negative impact upon the adjoining properties, whilst there is still some overshadowing, the POS of the adjoining property will have a reasonable level of solar access throughout the day.

The front façade remains predominantly the same with the exception of an added ground floor balcony. The proposed height variation relates to the rear of the dwelling only and is not visible from the streetscape due to the topography of the site. This will ensure the proposal retains the character of the street and surrounding locality. The visual bulk of the proposed works as viewed from the adjoining dwellings is not considered to be excessive as a result of the variation given the appropriate setbacks and articulation provided throughout the design in addition to the proposed landscaping to further reduce the bulk of the development. As there is no perceived impact on the streetscape character of the area or the amenity of adjoining properties beyond that of a compliant proposal, the dwelling is considered to be able to meet the objectives of the height control despite the numerical non-compliance.

In the circumstances of this particular case, it is considered that strict compliance with the overall height requirements of Warringah Local Environmental Plan 2011 is considered unreasonable and unnecessary as the alterations and additions to an existing dwelling has been designed to reduce the height as much as possible whilst still providing a design which is in keeping with the resident's needs. The increase in height proposed for the residence is the direct result of the topography of the site and is consistent with the development theme in the surrounding area. Despite the non-compliance the proposed development can still attain the objectives of the Environmental Planning and Assessment Act 1979, R2 Low Density Residential and the subject development standard.

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The requested variation relates to Clause 4.3(2) as shown below:

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The subject site is identified to have a maximum building height of 8.5m.

In this instance an overall building height of 8.62m is proposed requiring a 120mm variation to the development standard. The requested variation is restricted to the rear of the dwelling where there is a significant site fall. The increase to the overall building height is considered to have minimal impact on the overall development in terms of bulk and scale appearance, due to the maximum building height positioned to the rear of the dwelling and thus not being visible from the streetscape. The overall dwelling not considered to be excessive in size, having been designed to include extensive articulation and a landscape design that follows the

topography of the allotment as much as practical for the alterations and additions to an existing dwelling. The proposed development is in keeping with surrounding developments in an area where the overall height control appears to have been abandoned due to the topography of the sites. Further the proposed development provides a suitably sized dwelling in keeping with developments of the surrounding area.

The proposed development is a reasonable development for the site as it follows the existing ridgeline of the dwelling and does not propose any addition levels. The variation directly relates to the significant fall to the rear boundary. Reducing the overall building height of the dwelling is not considered feasible as the reduction in height would detrimentally impact the amenity of the development through reducing roof and ceiling heights that have been minimised as much as practical whilst considering the existing dwelling.

Despite the variation, the proposed low density residential land use is considered to be an orderly and economic use and development of the land in an established residential area where increased residential dwelling has set a theme for dwellings in this area of North Balgowlah.

The variation will result in an increase in height by 120mm from the permitted overall height which is considered to have minimal impact on the overall development. The proposed development is not considered to be excessive in size and provides a suitably sized addition to an existing dwelling in keeping with developments in the surrounding area.

Whilst being numerically non-compliant with the height of buildings control the proposed development is not anticipated to detrimentally impact the streetscape or surrounding developments by way of solar access or privacy. In fact the proposed development will result in an improved amenity and retained streetscape appearance as a result of the urban renewal development and by ensuring that the bulk and scale of the development is consistent with the existing development.

The objects of the Environmental Planning and Assessment Act 1979 are understood to be as follows:

1.3 Objects of Act

The objects of this Act are as follows—

- (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,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*

- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

Most relevant objects to this development are objects 1.3(c), 1.3 (e), 1.3(g) and 1.3(h) as outlined above.

The proposed development relates to alterations and additions to an existing dwelling within a residential setting. Allowing redevelopment of an existing dwelling, despite the numerical non-compliance with the height of buildings provisions, ensures that the dwelling can be retained on the site with streetscape appearance maintained whilst providing an improvement to the life span of the built form. Further, allowing the minor increase in building height ensures that the existing dwelling is enhanced which is considered to promote orderly and economic use and development of the land.

Vegetation removal has been minimised as much as practical to site the proposed alterations and additions. Street trees and all trees throughout site are to be retained and protected in order to maintain the landscape character of the area and to assist in the conservation of native plants and animals. The siting of the proposed works has also given consideration to the retention and protection of neighbouring trees.

Allowing the updating of existing dwellings through alterations and additions within residential areas ensures that a range of dwelling and development types are available for residential occupation. The design of the proposed development is for the alteration and addition to an existing built form which promotes good design through improved functionality of the floor plan. Further the proposed alterations and additions provides open areas within the design ensuring that the amenity of the development is enhanced as a result of the proposal.

The design of the proposed development has given consideration to the streetscape locality, surrounding development along with the orientation of the allotment during the design process. The development appropriately addresses the street frontage and provides appropriate visual bulk in keeping with recent development throughout the North Balgowlah area. Consideration of these key aspects promotes good design through a high quality architectural development. Further the proposed alterations and additions has been designed to provide high level of amenity to the development and future occupants of the dwellings.

Whilst "environmental planning grounds" are not separately defined within the EP&A Act 1979 the proposed development is considered to provide orderly and economic use and development of the land through retention of an existing dwelling. Environmental protection is achieved through minimal vegetation removal. Further the proposal meets good design principals and enhanced amenity of the dwelling through reconfiguration of the existing design without detrimentally impacting the surrounding development by way of visual bulk, privacy, amenity and solar access.

- (4) Development consent must not be granted for development that contravenes a development standard unless—*
- (a) the consent authority is satisfied that—*
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) the concurrence of the Planning Secretary has been obtained.*

The proposal is able to satisfy 3(a) and 3(b) as discussed above, therefore the proposed development is considered to being the public interest. Further the proposed alterations and additions are orderly and economic use and development of the land is enhanced whilst providing good design and amenity for the occupants of the development.

- (5) In deciding whether to grant concurrence, the Planning Secretary must consider—*
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) the public benefit of maintaining the development standard, and*
 - (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.*

There is considered to be no public benefit in refusing the application (for the reasons stated above) so as to ensure that full compliance with the maximum height of buildings control is achieved. The contravention of the standard does not raise any matters of state or regional significance nor would it be detrimental to the site or surrounding area.

Accordingly, Council's agreement is sought to the proposed variation in maximum overall building height for the site.