



# STATEMENT OF ENVIRONMENTAL EFFECTS REPORT

**ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING**

**70 NANDI AVENUE, FRENCHS FOREST**

February 2024

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## 1.0 INTRODUCTION

Metro Planning Services has been engaged by Mr Michael Cimino to prepare a Statement of Environmental Effects Report (SEE) in support of a development application which seeks approval for alterations and additions to an existing dwelling.

The site is zoned R2- Local Centre under the provisions of Warringah LEP 2011 and the development is permissible with Council consent. The proposed alterations and additions have been found to be consistent with the provisions of the Warringah LEP 2011 apart from the height of buildings development standard. The proposal seeks consent for a maximum height of 8.830m and exceeds the mapped maximum height requirement of 8.5m. Despite the numerical exceedance, the development sits well within the locality and presents a compatible built form, scale and bulk and should be deemed worthy of support by Council. A clause 4.6 variation request statement has been submitted to support the exceedance.

The site is within the Landslide Risk Land (Area B) and mapped as bush fire prone land, however the existing works do not impact on the landslide and bushfire risk. The proposal is supported by a Preliminary Geotechnical Report and Bushfire Assessment Report.

The development has been assessed with the relevant controls of Warringah Local Environmental Plan and Development Control Plan 2011 and is found to be generally compliant except for the landscaped area height plane controls. The non-compliances are further justified in the body of this report.

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 relevant environmental effects; and
- S4.14 Certain bushfire prone land
- 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 Drafting Help;
- Clause 4.6 variation statement prepared by Metro Planning Services;
- BASIX certificate prepared by Livsmart Solutions;
- Preliminary Geotechnical Assessment prepared by Ascentgeo;
- Bushfire report prepared by Bushfire Planning & Design; and
- Stormwater plan prepared by NB Consulting Engineers

## 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. 70 Nandi Avenue Frenchs Forest as identified on the locality plan contained in **Figure 1**.

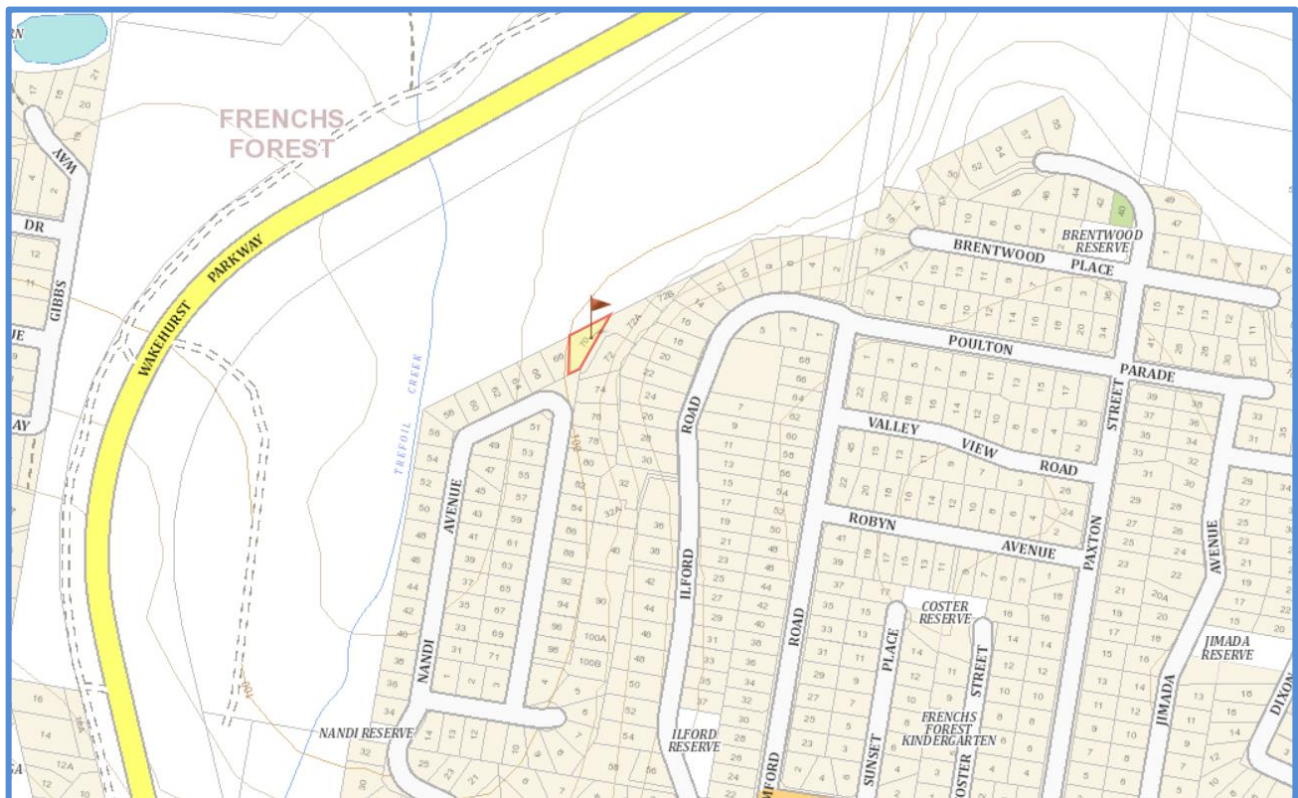


Figure 1-Location plan

### 2.2 Site Description

The subject land is legally described as Lot 20 in DP221359

The site is an irregular shaped allotment with a total area of 631m<sup>2</sup> that has a frontage of 9.44m to Nandi Avenue. The site currently contains a two-storey residential dwelling with vehicular access from Nandi Avenue and associated structures include a swimming pool. A detailed survey of the site is contained in **Figure 3**.

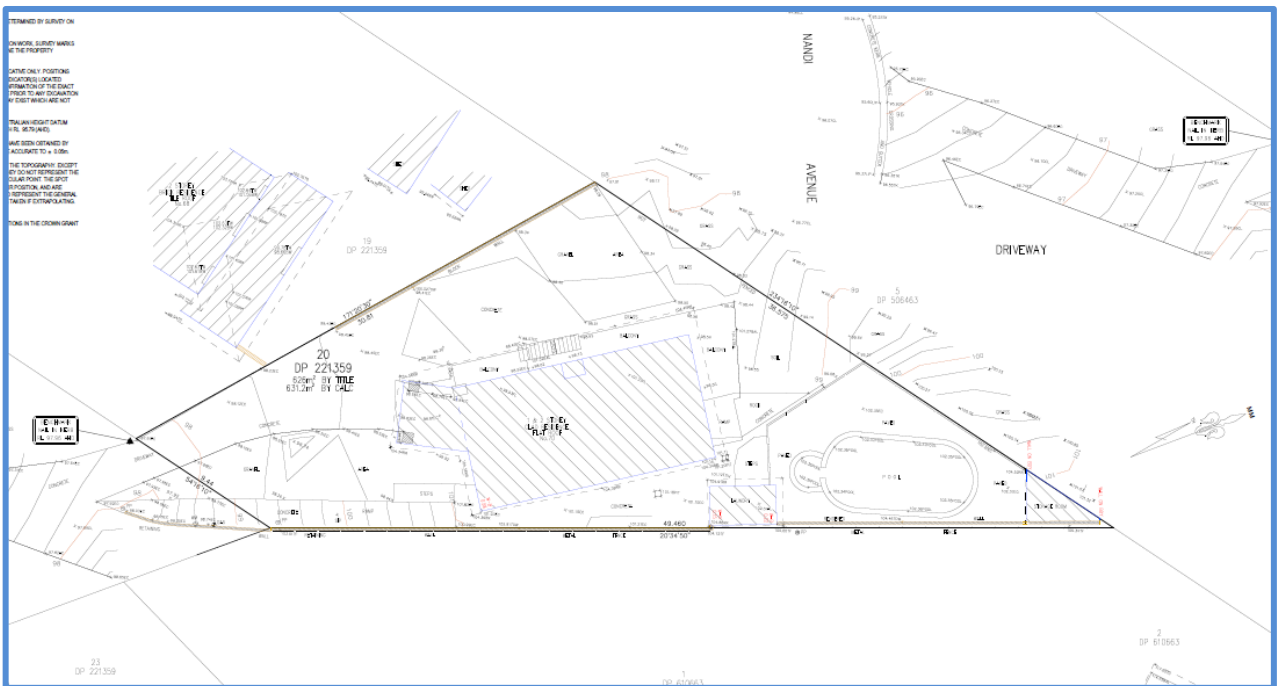
The site is mapped as containing Bushfire (Vegetation) and Landslide Risk.

An aerial view of the site is contained in **Figure 2**.





### Figure 2-Aerial view of site



### Figure 3-Detailed Survey of site

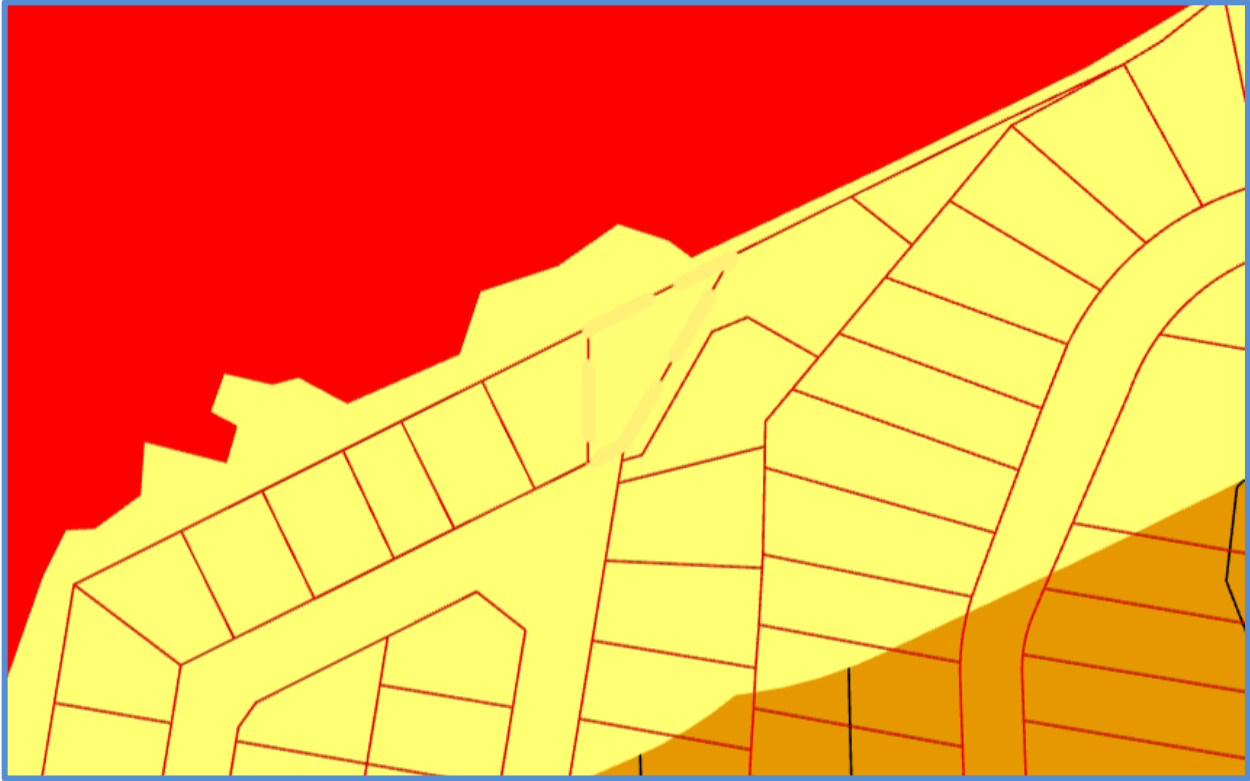


Figure 4-Bushfire Map (NSW Planning Portal)

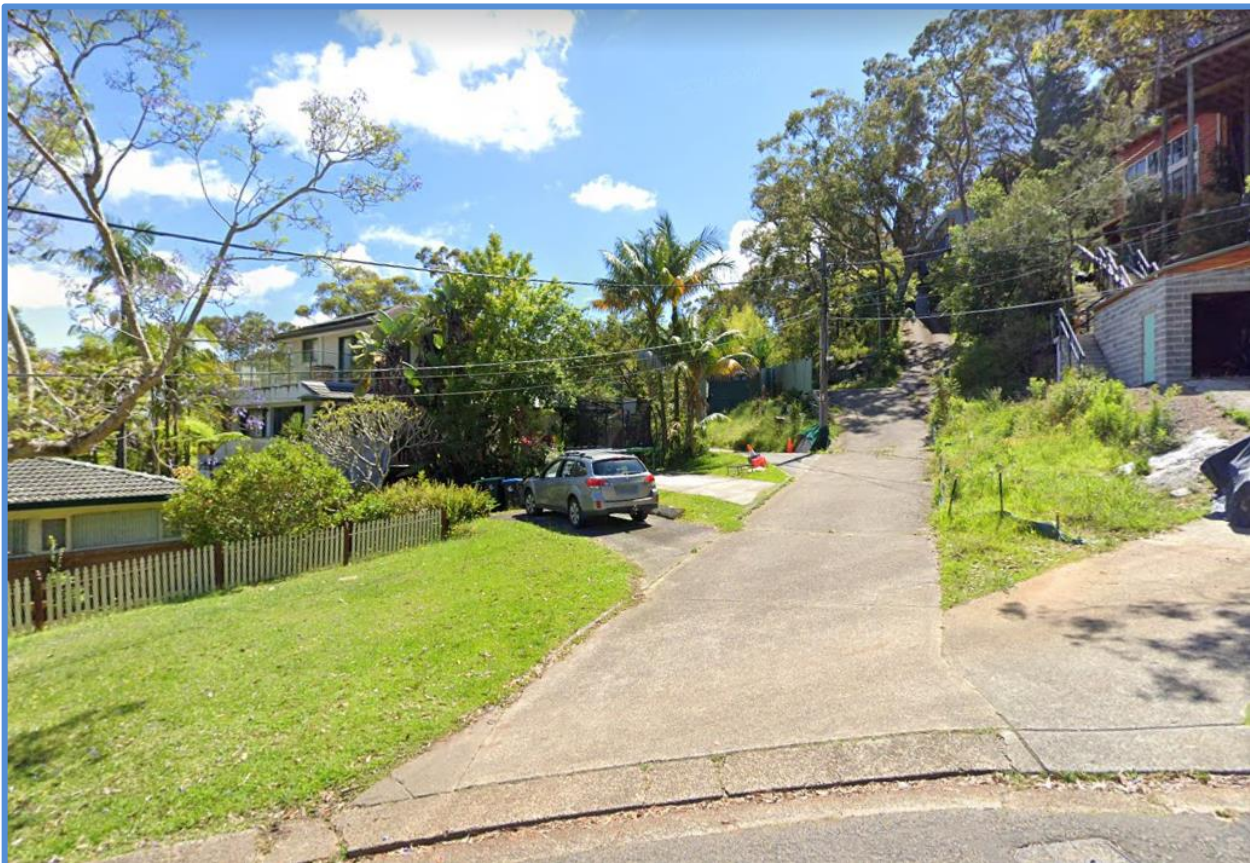


Figure 5-Streetscape view of existing premises at 70 Nandi Avenue, Frenchs Forest (Google Maps)



### 2.3 Site Context

The site is within a low-density residential area and abuts public reserve bushland to the north. The locality consists of single and double storey free standing dwellings with associated structures including swimming pools.

### 2.4 Site History

The site was subject to a previous BIC approval by Council. Building Information Certificate Application No: BC2023/0038 was approved on October 2023 for the following unauthorised works:

- Concrete decking around existing pool and spa;
- Pool filter room;
- Outdoor laundry and bathroom;
- Concrete wall constructed on the eastern boundary with 72A Nandi Avenue;
- A concrete block fence approximately 30.81m in length on the boundary with 68 Nandi Avenue, approximately 1600mm in height;
- Concrete access ramp approximately 20-25m in length rising from ground level to over 2m above existing ground level, leading from the entrance of the property from Nandi Avenue to in line with the dwelling;
- Fourteen (14) concrete steps with a landing at the top alongside the access ramp from the front of the residence to adjacent to undercover carport.

### 3.0 PROPOSED DEVELOPMENT

The development application seeks Council consent for the alterations and additions to the existing residential dwelling including the following works:

- New driveway and garage
- New 1<sup>st</sup> floor extension
- New 2<sup>nd</sup> floor addition
- New deck/balcony

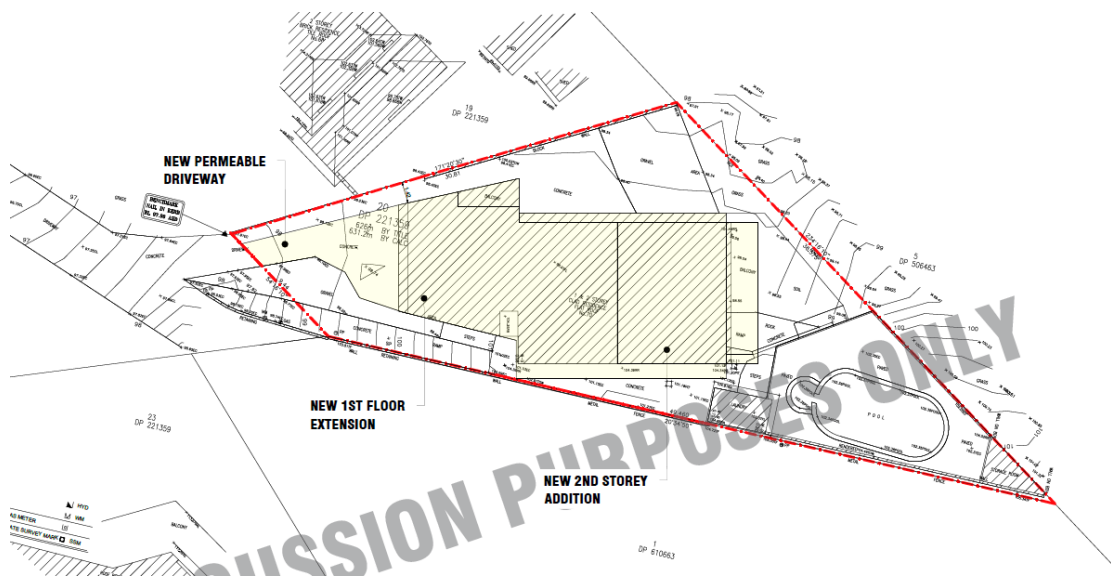


Figure 6- Site plan



## 4.0 PLANNING CONSIDERATIONS

### 4.1 State Environmental Planning Policy (Resilience and Hazards) 2021

The requirements of State Environmental Planning Policy (Resilience and Hazards) 2021 apply to the subject site. In accordance with Chapter 4 of the SEPP, Council must consider if the land is contaminated, if it is contaminated, is it suitable for the proposed use and if it is not suitable, can it be remediated to a standard such that it will be made suitable for the proposed use.

The site is not identified in the Council's records as being contaminated. Aerial photography reveals the site does not have an obvious history of a previous non-residential land use that may have caused contamination and there is no specific evidence that indicates the site is contaminated.

Therefore, in accordance with Clause 4.6 of the State Environmental Planning Policy (Resilience and Hazards) 2021, the land is suitable for the proposed development.

### 4.2 State Environmental Planning Policy (Sustainable Buildings) 2022

A BASIX Certificate is submitted with the development application. The BASIX Certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal.

### 4.3 State Environmental Planning Policy (Biodiversity & Conservation) 2021

Chapter 2 of State Environmental Planning Policy (Biodiversity & Conservation) 2021 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.

The proposal does not include the removal of any on-site plantings. On this basis, the proposal is consistent with the Biodiversity & Conservation State Environmental Planning Policy.

### 4.4 Warringah LEP 2011 (WLEP 2011)

The subject land is zoned R2-Low Density Residential under the provisions of WLEP 2011 and the proposed ancillary works to the existing dwelling is permissible with the consent. An assessment of the proposal with relevant clauses of WLEP 2011 is addressed below.

Warringah Local Environmental Plan 2011		
Clause	Comment	Compliance
<b>1.0 PRELIMINARY</b>		
<b>1.2 Aims of Plan</b>	Proposal consistent with aims of the plan.	Yes
<b>2.0 PERMITTED OR PROHIBITED DEVELOPMENT</b>		

<b>2.1 Land use Zones</b>	The site is zoned R2- Low Density Residential.	Yes
<b>2.3 Zone Objectives</b>	The development is consistent with the objectives of the R2 zone.	Yes
<b>LAND USE TABLE</b>		
<b>1 Objectives of Zone</b>	<ul style="list-style-type: none"> <li><i>To provide for the housing needs of the community within a low-density residential environment.</i></li> <li><i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i></li> <li><i>To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.</i></li> </ul>	Yes
<b>3 Permitted with consent</b>	<i>Bed and breakfast accommodation; Boat sheds; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; <b>Dwelling houses</b>; Educational establishments; Emergency services facilities; Environmental protection works; Exhibition homes; Group homes; Health consulting rooms; Home businesses; Hospitals; Oyster aquaculture; Places of public worship; Pond-based aquaculture; Recreation areas; Respite day care centres; Roads; Secondary dwellings; Tank-based aquaculture; Veterinary hospitals</i>	Yes
<b>4.0 PRINCIPAL DEVELOPMENT STANDARDS</b>		
<b>4.3 Height of Buildings</b>	Maximum of 8.5m	Development proposes a maximum height of 8.830m. Please refer to clause 4.6 variation statement.
<b>4.4 Floor Space Ratio (FSR)</b>	Site not mapped with an FSR requirement.	N/A

<b>4.6 Exceptions to development standards</b>	<p>(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.</p> <p>(3) Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—</p> <p>(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and</p> <p>(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.</p>	The development contravenes clause 4.3 height of buildings requirement. Please refer to clause 4.6 variation request statement that demonstrates compliance with the height building standard is unreasonable.
<b>5.0 MISCELLANEOUS PROVISIONS</b>		
<b>5.11 Bush fire hazard reduction</b>	<i>Bush fire hazard reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent.</i>	Complies. Please refer to bushfire report.
<b>6.0 ADDITIONAL LOCAL PROVISIONS</b>		
<b>6.4 Development on sloping land</b>	The site is mapped as Area B - 5°-25°slopes.	Proposal supported by Preliminary Geotechnical Report. Proposed works do not impact land slide risk. Council to condition mitigation measures accordingly.

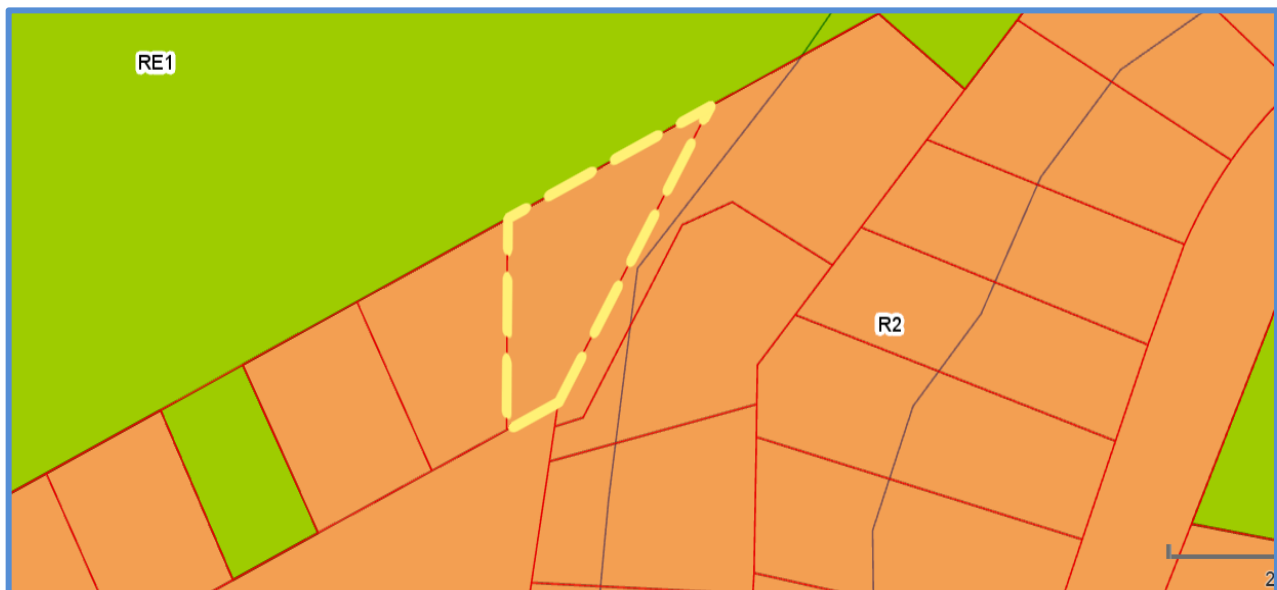
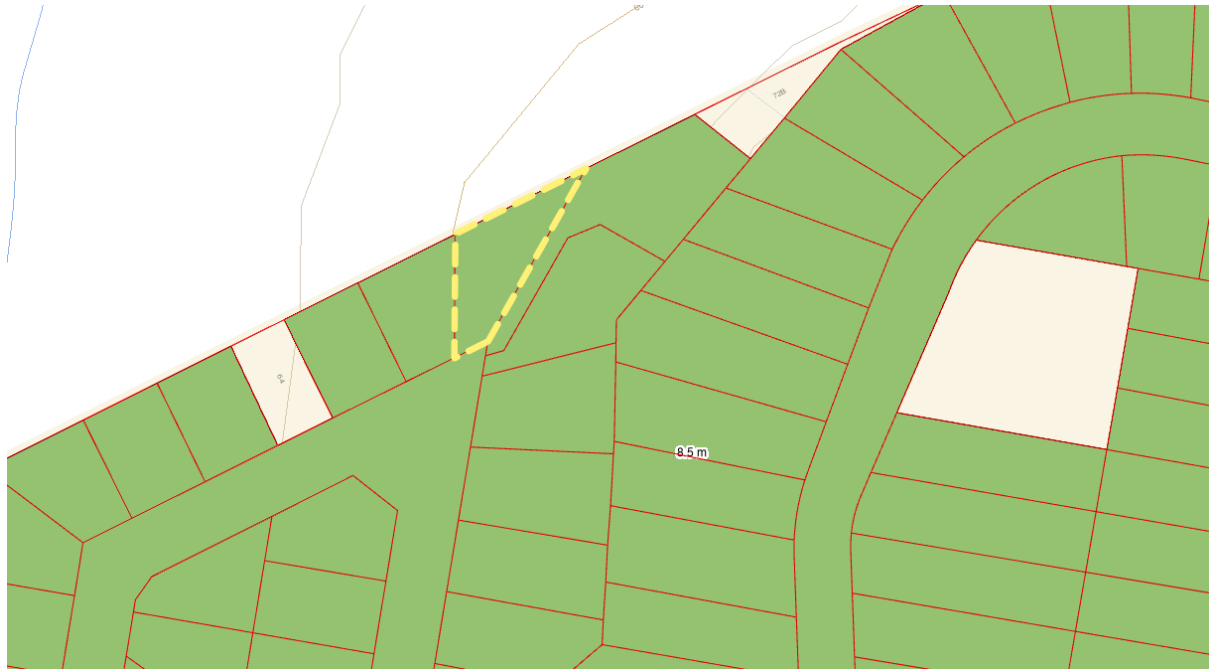


Figure 7-Landuse zone map under WLEP 2011

### Clause 4.3 Height of Buildings- variation discussion

This section should be read in conjunction with the clause 4.6 variation to development standards statement.

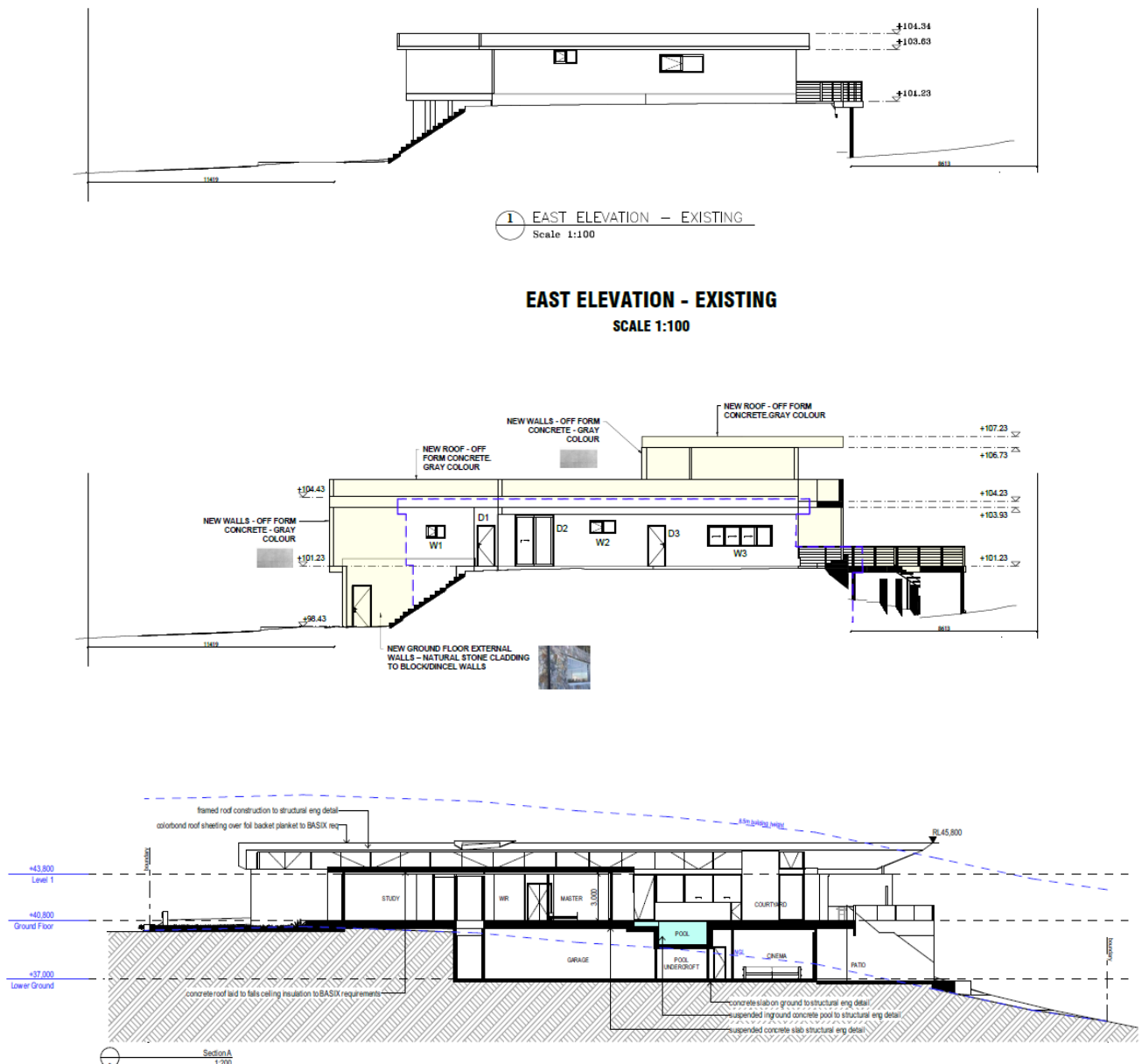
Pursuant to clause 4.3 of WLEP2011, the subject site is mapped to a maximum building height of 8.5m as per Height of Buildings Map, seen in **Figure 7** below.



**Figure 8 – Height of buildings extract from WLEP 2011**

The development provides for a height of buildings of 8.830m, which equates to a 3.88% variation. The extract of the height variation is provided in **Figure 8** below.





**Figure 9 –Elevations showing height exceedance**

When considering a variation to a development standard, the objectives of the standard must be addressed. The objectives of clause 4.3 and a response to the objectives is as follows:

*(a) to nominate a range of building heights that will provide a transition in built form and land use intensity across all zones,*

Comment: The development proposes a maximum height of 8.830m, which is not consistent with the mapped 8.5m height requirement for the site. The site abuts RE1 recreation land to the north and due to the proximity of the zone boundary the height exceedance should be considered acceptable.

*(b) to ensure that the heights of buildings reflect the intended scale of development appropriate to the locality and the proximity to employment centres and transport facilities,*

Comment: The development provides for an appropriate scale that is reflective of the existing low-density locality of Frenchs Forrest. The site is a peculiar shape with a narrow site frontage and the minor height encroachment is trivially visible from the streetscape. Additionally, the extension and

floor addition are designed to be compatible in accordance with the edgy topography. Whilst the site is not subject to FSR controls, the development provides for a very conservative gross floor area relative to the area of the subject site and meets the site coverage control prescribed in the development control plan.

*(c) to provide for built form that is compatible with the hierarchy and role of centres,*

Comment: The built form is consistent with the low-density residential character and scale of the locality.

*(d) to assist in the minimisation of opportunities for undesirable visual impact, disruption to views, loss of privacy and loss of solar access to existing and future development and to the public domain*

Comment: The visual impact of the height exceedance is lessened due to the following reasons:

- Recessive and trapezium design of the extension and floor addition detracts from the visual impact;
- The narrow street frontage and recessive front setback, providing nominal impacts to the public domain.
- Development complies with solar access requirements without hinderance to adjoining sites.

The variation to height of buildings should be deemed worthy of support by Council for the following reasons:

1. The proposed roof line is a continuous line that mimics the natural ground level from the street level. Therefore, strict application of the height of buildings will result in sub-orderly development and disrupt the continuous roof line element.
2. The height of buildings exceedance minimally presents to Nandi Avenue given the narrow frontage and recessed front setback.
3. The site abuts RE1 zoned land to the rear (north), where there are no building height controls. Council should allow flexibility where there is a transition in height of buildings across zone boundaries.
4. The height exceedance does not relate to any habitable area, rather it is an encroachment to the visually interesting and continuous skillion roof line. The height of buildings exceedance, as such, does not present overshadowing impacts to adjoining properties or exacerbate privacy issues.
5. The development with the height variation does not offend the objectives of the zone and height of buildings development standard.

Given the circumstances of the case, the provision of a strict numerical compliance would be unreasonable on the basis that the development achieves compliance with the objectives of the standard and is compatible with the scale of the locality.

#### **4.5 Warringah Development Control Plan 2011 (WDCP 2011)**

The proposal is subject to consideration under the following relevant controls of Warringah Control Plan 2011.

WARRINGAH DEVELOPMENT CONTROL PLAN 2011			
CONTROLS	REQUIRED	PROVIDED	COMPLIANCE
<b>PART B –BUILT FORM CONTROLS</b>			
<b>B1 Wall Heights</b>	7.2m	Total wall height equates to 7.9m	No. See discussion below.
<b>B2 No of Stories</b>	N/A	N/A	N/A
<b>B3 Side Boundary envelope</b>	Building envelope 45 degrees from 4m. Eaves up to 675mm are an allowable encroachment.	Encroachment on the west and northern elevation.	No. See discussion below.
<b>B4 Site Coverage</b>	N/A	N/A	N/A
<b>B5 Side Boundary setbacks</b>	<p>0.9m</p> <p>All development: Screens or sunblinds, light fittings, electricity or gas meters, or other services infrastructure and structures not more than 1 metre above ground level (existing) such as unroofed terraces, balconies, landings, steps or ramps may encroach beyond the minimum side setback</p> <p>Ancillary to a dwelling house: Consent may be granted to allow a single storey outbuilding, carport, pergola or the like that to a minor extent does not comply with the requirements of this clause</p>	900mm side boundary provided.	Yes
<b>B6 Merit assessment of side boundary setbacks</b>	N/A	N/A	N/A
<b>B7 Front Boundary setbacks</b>	Primary-6.5m	Front setback is approximately 6.5m.	Yes
<b>B8 Merit assessment of front boundary setbacks</b>	N/A	N/A	N/A
<b>B9 Rear boundary setback</b>	6.0m	Second floor addition rear setback less than 6m.	No. See discussion below.
<b>B10 Merit assessment of rear setbacks</b>	N/A	N/A	N/A
<b>B11 Foreshore Building Setback</b>	N/A	N/A	N/A

<b>B12 National Parks Setback</b>	N/A	N/A	N/A
<b>B13 Coastal Cliffs setback</b>	N/A	N/A	N/A
<b>B14 Main Roads Setback</b>	N/A	N/A	N/A
<b>PART C-SITING FACTORS</b>			
<b>C2 Traffic, access &amp; safety</b>	Vehicle crossing to be provided in accordance with Council's vehicle crossing policy.	Vehicle crossing to standards.	Yes
<b>C3 Parking Facilities</b>	Garages not to visually dominate façade. Parking to be in accordance with AS/NZS 2890.1.	Parking facilities and parking rate comply with dwelling rates as per Appendix 1 and standards.	Yes
<b>C4 Stormwater</b>	To be provided in accordance with Council's Stormwater Drainage Design Guidelines for Minor Developments & Minor Works Specification.	Stormwater concept design considered acceptable.	Yes
<b>C6 Building over or adjacent to constructed Council drainage easements</b>	N/A	N/A	N/A
<b>C7 Excavation &amp; landfill</b>	Site stability to be maintained.	N/A	Yes
<b>C8 Demolition &amp; construction</b>	Waste Management Plan required.	Waste Management Plan provided.	Yes
<b>C9 Waste Management</b>	Waste storage area to be provided.	There is sufficient area on site for waste and recycling bins behind the building line. Development complies with waste management guidelines.	Yes
<b>PART D-DESIGN</b>			
<b>D1 Landscaped open space &amp; bushland</b>	Minimum 40% landscaped area required.	Existing landscape- 41% Proposed landscape- 35%	No. See Section 4.5 for discussion.
<b>D2-Private Open Space</b>	Dwelling houses with three or more bedrooms. Min 60m <sup>2</sup> with min dimension 5m	Site provides for excess private open space.	Yes
<b>D3 Noise</b>	Mechanical noise is to be attenuated to maintain adjoining unit amenity.	As per existing.	N/A



	Compliance with NSW Industrial Noise Policy Requirements.		
<b>D4 Electromagnetic radiation</b>	N/A	N/A	N/A
<b>D5 Orientation and Energy Efficiency</b>	Dwellings to be orientated to receive northern sun. Appropriate construction to enhance thermal properties and ventilation/natural cooling Compliance with SEPP (BASIX) requirements.	Proposed extension and floor addition receive northern sun.	Yes
<b>D6 – Access to sunlight</b>	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.	Solar access requirements achieved.	Yes
<b>D7 Views</b>	View Sharing to be maintained	Noted.	Yes
<b>D8 Privacy</b>	This clause specifies that development is not to cause unreasonable overlooking of habitable rooms and principle private open space of adjoining properties.	Noted. No privacy impacts foreseen.	Yes
<b>D9 Building Bulk</b>	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.	Proposed extension and addition does not cause significant visual impact onto the streetscape due to the recessive design.	Yes
<b>D10 Building Colours and materials</b>	External finishes and colours sympathetic to the natural and built environment.	Building colours and materials are sympathetic to the existing dwelling and surrounds.	Yes
<b>D11 Roofs</b>	The LEP requires that roofs should not dominate the local skyline.	Despite the minor height encroachment roof design responds to the natural topography of the land and does not	N/A

		dominate the local skyline.	
<b>D12 Glare &amp; Reflection</b>	Glare impacts from artificial illumination minimised. Reflective building materials to be minimized.	N/A	N/A
<b>D13 - Front Fences and Front Walls</b>	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
<b>D14 – Site Facilities</b>	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 adverse visual impacts foreseen by additional waste areas.	Yes
<b>D15 – Side and Rear Fences</b>	Side and rear fences to be maximum 1.8m and have regard for Dividing Fences Act 1991.	Maximum fence height is below 1.8m.	Yes
<b>D16 Swimming Pools and Spa Pools</b>	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.	Pool is existing.	Yes
<b>D17 Tennis Courts</b>	N/A	N/A	N/A
<b>D18 Accessibility</b>	Safe and secure access for persons with a disability to be provided where required.	N/A	N/A
<b>D19 – Site Consolidation in the R3 and IN1 Zone</b>	N/A	N/A	N/A
<b>D20 – Safety and Security</b>	Buildings to enhance the security of the community. Buildings are to provide for casual surveillance of the street.	Noted.	Yes
<b>D21 – Provision and Location of Utility Services</b>	Utility services to be provided.	Existing facilities on site.	Yes
<b>D22 – Conservation of Energy and Water</b>	A BASIX Certificate is required.	Basix Certificate submitted.	Yes
<b>D23 - Signs</b>	Building identification signage to be appropriate	N/A	N/A

	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.		
<b>E1 Private Property Tree Management</b>	Arboricultural report to be provided to support development where impacts to trees are presented.	Proposal does not require the removal of any significant vegetation.	Yes
<b>E3 Threatened species, populations, ecological communities</b>	Not identified on map.	N/A	N/A
<b>E4 – Wildlife Corridors</b>	Identified on the wildlife corridors map. No removal of vegetation proposed as part of this application.	N/A	N/A
<b>E5 – Native Vegetation</b>	Not identified on map.	N/A	N/A
<b>E6 - Retaining unique environmental features</b>	Unique or distinctive features within a site to be retained.	There are no distinctive environmental features on site.	Yes
<b>E7 Development on land adjoining public open space</b>	Site adjoins land adjoining public open space. Development on land adjoining public open space is to complement the landscape character and public use and enjoyment of the adjoining parks, bushland reserves and other public open spaces.	Noted.	Complies.
<b>E8 Waterways and Riparian Lands</b>	Land identified as waterway or riparian land.	Development does not impact on waterway/riparian lands.	Yes
<b>E9 – Coastline Hazard</b>	Not identified on map.	N/A	N/A
<b>E10 Landslip Risk</b>	Identified as landslip risk B.	Preliminary Geotechnical report submitted in support of proposal.	Yes

<b>E11 Flood Prone Land</b>	Site is not affected by Flooding.	N/A	N/A
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## Variations

### B1 Wall Heights

Warringah DCP 2011 prescribes a maximum wall height of 7.2m as per below control:

*1. Walls are not to exceed 7.2 metres from ground level (existing) to the underside of the ceiling on the uppermost floor of the building (excluding habitable areas wholly located within a roof space)*

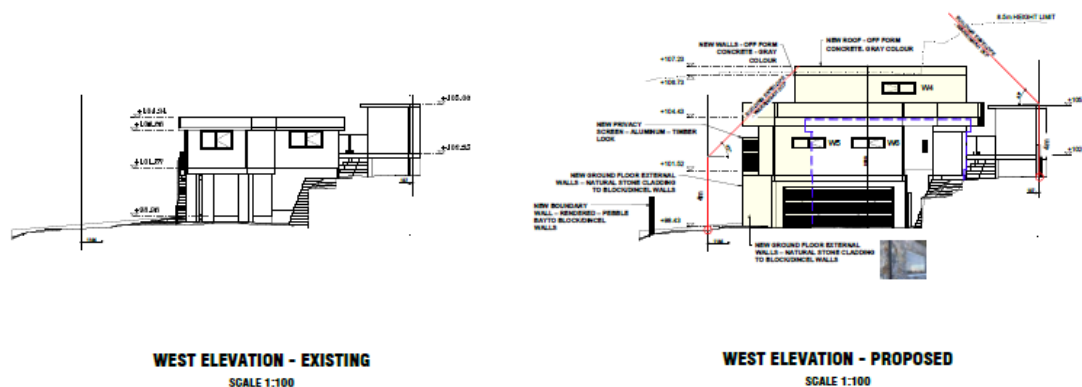
The development provides for a wall height of 7.9m from the existing ground level to the underside of the ceiling of the uppermost floor.

We consider variation of this control reasonable and justified for the following reasons:

- Development does not provide visual impacts from Nandi Avenue given the narrow frontage and recessed building line.
- The upper most floor addition does not pose impacts onto adjoining sites and public recreation area through the careful consideration of a sunken design.
- The extra 500mm relates to the upper most floor, which is less in gross floor area compared to the ground and first floors.

### B3 Side Boundary envelope

The development exceeds the side boundary envelope control. The variation relates to the minor roof encroachment on the western elevation as seen below:



**Figure 10 –Western elevation**

To consider a variation to the prescribed development control, the objectives of the control must be considered. The objectives of the side boundary envelope are prescribed below:

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



The minor encroachment to the side boundary envelope is considered acceptable due to the following reasons:

- Despite the minor noncompliance to the prescribed height control and setback envelope control, the development does not visually dominate given its appropriate design and reduced floor area.
- The non-compliant envelope encroachment relates to the western elevation, where overshadowing impacts are very minimal.
- Spatial separation and privacy are not compromised given the compliant side setbacks and appropriate sill window heights for bedroom windows.

#### B9 Rear boundary setback

Warringah DCP 2011 prescribes a minimum rear setback of 6.0m. The outdoor entertaining deck encroaches on the 6m rear boundary, however the habitable areas apply a sufficient setback clear of the 6m requirement. Please note the ancillary outbuildings and structures including the pool and storage room that encroach on the rear setback are existing structures that were approved under the previous building certificate application.

Furthermore, section B10 of the Warringah DCP 2011 states the following on merit assessment for non-compliant rear setbacks:

#### *Objectives*

- *To ensure opportunities for deep soil landscape areas are maintained.*
- *To create a sense of openness in rear yards.*
- *To preserve the amenity of adjacent land, particularly relating to privacy between buildings.*
- *To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*
- *To provide opportunities to maintain privacy between dwellings.*

#### *Requirements*

*1. Rear boundary setbacks will be determined on a merit basis and will have regard to:*

- *streetscape;*
- *amenity of surrounding properties; and*
- *setbacks of neighbouring development*

We consider variation of this control reasonable and justified for the following reasons:

- Given the peculiar site configuration, a rear boundary line is indefinite. Additionally, the floor extension and floor addition are sufficiently setback from the utmost rear point of the site.
- Privacy and overlooking onto adjoining sites are limited given habitable areas are sufficiently setback and a privacy screen is proposed on the northern elevation on the deck.
- Private open space is ample, with amenities such as a deck and pool area. As such there is a sense of openness in the rear yard.
- The proposal will be undiscernible from the public streetscape.

### D1-Landscaped Area

Warringah DCP 2011 prescribes a minimum 40% landscaped area is required. The site provides for a landscaped area of 35%.

To consider a variation to the prescribed development control, the objectives of the control must be considered. The objectives of the landscaped area requirements are prescribed below:

- *To enable planting to maintain and enhance the streetscape.*
- *To conserve and enhance indigenous vegetation, topographical features and habitat for wildlife.*
- *To provide for landscaped open space with dimensions that are sufficient to enable the establishment of low lying shrubs, medium high shrubs and canopy trees of a size and density to mitigate the height, bulk and scale of the building.*
- *To enhance privacy between buildings.*
- *To accommodate appropriate outdoor recreational opportunities that meet the needs of the occupants.*
- *To provide space for service functions, including clothes drying.*
- *To facilitate water management, including on-site detention and infiltration of stormwater.*

The insufficient landscaped area is considered acceptable for the following reasons:

- Provision for an enhanced amenity for occupants of the dwelling house and utilisation of private open space.
- Further opportunities for landscaping within the front yard and entertainment deck are probable.
- Notwithstanding the irregular site shape, the site complies with the prescribed open space requirements that have adequate dimensions to enable landscaping and areas for clothes drying.
- Lack of landscaped area does not impact streetscape and water management.

For the above reasons, Council shall consider the non-compliance acceptable on merit and worthy of support.

## 5.0 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

### 5.1 Section 4.14 of The Environmental Planning and Assessment Act 1979

Section 4.14- Consultation and development consent—certain bush fire prone land of the Act prescribes the following:

*(1) Development consent cannot be granted for the carrying out of development for any purpose (other than a subdivision of land that could lawfully be used for residential or rural residential purposes or development for a special fire protection purpose) on bush fire prone land (being land for the time being recorded as bush fire prone land on a relevant map certified under section 10.3(2)) unless the consent authority—*

*(a) is satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled Planning for Bush Fire Protection prepared by the NSW Rural Fire Service in co-operation with the Department (or, if another document is prescribed by the regulations for the purposes of this paragraph, that document) that are relevant to the development (the relevant specifications and requirements), or*  
*(b) has been provided with a certificate by a person who is recognised by the NSW Rural Fire Service as a qualified consultant in bush fire risk assessment stating that the development conforms to the relevant specifications and requirements.*

*(1A) If the consent authority is satisfied that the development does not conform to the relevant specifications and requirements, the consent authority may, despite subsection (1), grant consent to the carrying out of the development but only if it has consulted with the Commissioner of the NSW Rural Fire Service concerning measures to be taken with respect to the development to protect persons, property and the environment from danger that may arise from a bush fire.*

Comment: Site is mapped as containing bushfire threat. Application accompanies bushfire report. Council to consider referral to NSW RFS.

### 5.2 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 the Warringah LEP 2011 and the proposal is permissible with development consent.

#### **(a)(ii) – The Provisions of any Draft Environmental Planning Instrument**

Nil

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

The proposal has been found to comply with the objectives and relevant controls of Warringah Development Control Plan 2011 on planning merit grounds as detailed in Section 4.0. The minor non-compliances to setbacks and landscaped area are deemed worthy of support and do not detract from the residential profile of the area.

#### **(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**

The site is located in an established low density residential area. The surrounding area comprises a mixture of residential typologies. The development complies with the principal development standards specified in the WLEP 2011. The minor height encroachment will have no visual impact on the streetscape and minimal amenity impact onto adjoining properties and the landscaping non-compliance has been appropriately justified in the body of the report.

On this basis, we submit that the proposal is consistent with the surrounding residential context of the area.

- **Stormwater management.** The proposed works allow for all stormwater to drain via gravity fed lines to Council's collection system in Nandi Avenue.
- **Visual and Acoustic Privacy.** The proposal will not cause unreasonable overlooking of habitable rooms and principle private open space of future adjoining properties. The development is provided with appropriate boundary setbacks, except for the minor encroachment of the entertainment deck to surrounding properties thereby maintaining existing levels of acoustic and visual privacy.
- **Utility Services.** Existing electricity, sewer, water and telecommunication services are provided to the development in accordance with relevant service authority requirements.
- **Social & Economic Impacts**

The proposal will have minimal and positive adverse social or economic impacts.

**(c) – Suitability of the Site for Development**

The existing development is permissible with consent under WLEP 2011 and is also consistent with relevant provisions applicable under Warringah Development Control Plan 2011. On this basis, the site is considered suitable for 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 is permissible with consent and is in accordance with the objectives R2 Low Density Residential. On this basis, the proposal 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 development is permissible with the consent of Council and the proposal is found to be consistent with the zone objectives. The proposal is furthermore consistent with relevant matters for consideration under Warringah Development Control Plan 2011 on planning merit grounds.

The application before the Council provides minimal unreasonable impacts to adjoining and adjacent residential properties. The development is in keeping with the envisaged low density residential character of the locality and no adverse amenity or environmental impacts are foreseen.

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 proposal and grant development consent subject to conditions of consent.