

STATEMENT OF ENVIRONMENTAL EFFECTS

5 TAMWORTH PLACE, ALLAMBIE HEIGHTS

**PROPOSED CHANGE OF USE TO PROVIDE FOR A
SECONDARY DWELLING**

**PREPARED ON BEHALF OF
Mr & Mrs Mirabito**

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1. INTRODUCTION

This application seeks approval for the change of use to create a secondary dwelling upon land at Lot 18 in DP 241941 which is known as **No. 5 Tamworth Place, Allambie Heights**.

In preparation of this development application consideration has been given to the following:

- Environmental Planning & Assessment Act, 1979.
- SEPP (Affordable Rental Housing) 2009.
- Warringah Local Environmental Plan 2011.
- Warringah Development Control Plan.

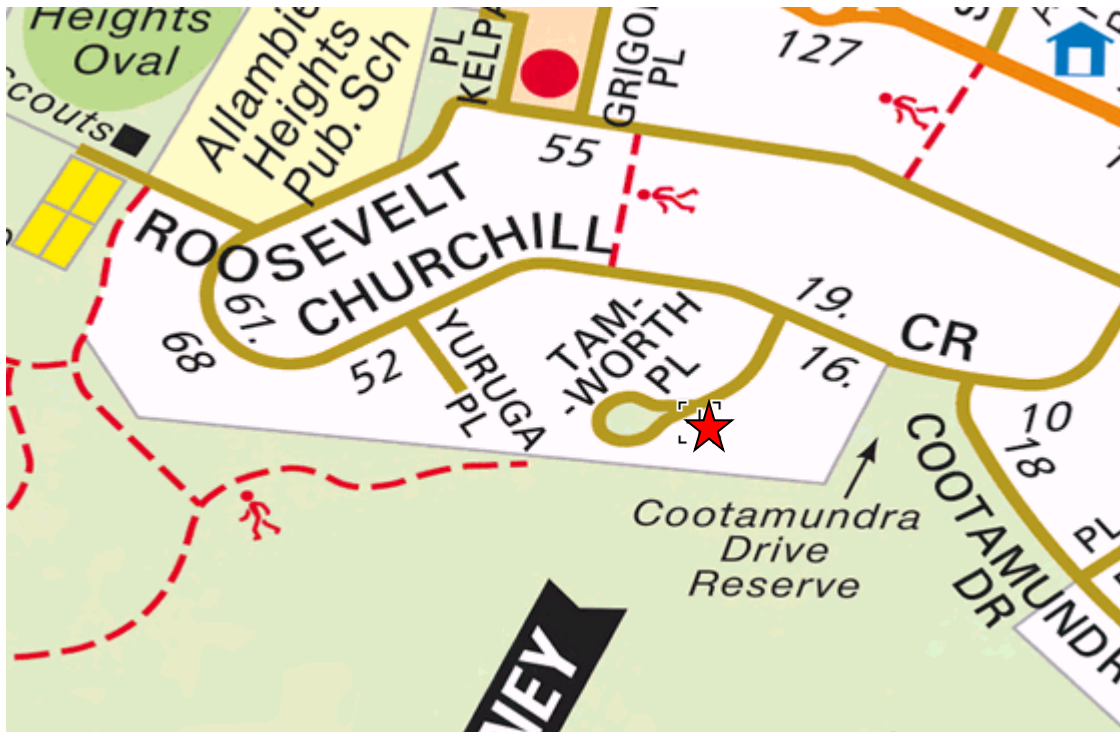
The following details and documents have been relied upon in the preparation of this document:

- Survey Plan prepared by Total Surveying Solutions, Job No. 190328, dated 19/02/19.
- Architectural Plans prepared by Peter Formosa and dated 27/03/2019.
- Bushfire Risk Assessment Report prepared by Bushfire Planning Services, Ref No. 2485 and dated 8 April 2019.
- BCA Assessment prepared by GRS Building Reports Pty Ltd and dated 29 March 2019.
- Fire Engineering Report prepared by MCD Fire Engineering, Ref No. S19019 and dated 12 March 2019.

This Statement describes the subject site and the surrounding area, together with the relevant planning controls and policies relating to the site and the type of development proposed. It provides an assessment of the proposed development against the heads of consideration as set out in Section 4.15 of the Environmental Planning and Assessment Act 1979. As a result of that assessment it is concluded that the development of the site in the manner proposed is considered to be acceptable and is worthy of the support of the Council.

2. SITE DESCRIPTION AND LOCALITY

The site is identified as Lot 18 in DP 241941 which is known as **No. 5 Tamworth Place, Allambie Heights**. The site is located on the southern side of Tamworth Place with a site area of 624.4m². The site has a depth of 36.58m and a frontage of 17.07m to Tamworth Place. The locality is depicted in the following map:



Site Location Map

The site falls from the street frontage (RL96.75) towards the rear boundary (RL90.93). The site adjoins public open space to the rear. The subject site currently comprises a part two and part three storey brick and tiled roof dwelling with inground pool in the rear yard. A low masonry wall extends along the front boundary and a concrete driveway located towards the northeast side boundary provides vehicular access to the attached garage.

The site is depicted in the following photographs:



Subject Site as Viewed from Tamworth Place

The existing surrounding development comprises a mix of single and two storey detached residential dwellings.

The site and its surrounds are depicted in the following photograph:



Aerial Photograph of Subject Site

4. THE DEVELOPMENT PROPOSAL

This proposal seeks approval for the change of use of the existing lower level to permit a secondary dwelling.

The lower basement level currently comprises habitable area incorporating a lounge room, bedroom, wet bar which was previously approved by Council.

This application seeks to convert this basement level into secondary dwelling. The proposal does not incorporate any works outside the existing footprint nor does the proposal provide for any external changes to the existing building. The secondary dwelling will provide for a kitchen, bathroom (with laundry), family room, lounge room and bedroom. The secondary dwelling will be accessed via stairs adjacent to the northeast boundary and the existing door on the southern elevation. The only works incorporate installing a cooker, laundry tub and BCA upgrade works as required by the BCA Assessment Report.

The proposed secondary dwelling has an area of 75m².

The proposal does not result in any additional hard surface area and all collected stormwater will continue to be dispersed to the existing stormwater system.

The proposal does not reduce the area of landscaping currently provided on site.

5. ZONING & DEVELOPMENT CONTROLS

The proposed development is identified as development requiring the consent of the Council under the provisions of the Environmental Planning and Assessment Act 1979, as amended. The following is an assessment of the proposal against the relevant provisions of the Act and all of the relevant planning instruments and policies of Warringah Council.

5.1 Planning for Bushfire Protection

The site is identified as bushfire prone land on Council's Map. Therefore the provisions of Planning for Bushfire Protection apply. A Bushfire Risk Assessment Report by Bushfire Planning Services, which in summary provides:

This development does not include any new external alterations or modifications to the building, all work is internal. As a result of the works only being undertaken on the inside of the building AS3959 Construction of Buildings in Bushfire Prone Areas does not apply as the standard only addresses the external fabric of a building.

This proposal utilises an existing, approved area of the house to be converted into a secondary dwelling, the area is already set up as such with a lounge room, bed room, kitchen etc. This proposal does not include any additional sleeping accommodation resulting in no increase in the occupancy level of the existing building. The existing building is capable of accommodating a set number of people, this number will not be increased by this proposal.

The Asset Protection Zones for this proposal includes an area of managed land directly opposite the southern, rear boundary of the subject lot. This area of land is known as "APZ 9" in the Manly Warringah War Memorial Park Fire Regime Management Plan. Two extracts of the plan are included on page 12 of this assessment.

Given this areas historical and ongoing management, it is considered acceptable to include the off-site area in the Asset Protection Zone for this proposal. Its appropriateness for inclusion as managed land has been discussed with the local RFS office at Terry Hills and confirmed.

It should be noted that the area is not mapped as a hazard in the councils' bushfire prone land map.

5.2 State Environmental Planning Policy (Affordable Rental Housing) 2009

This SEPP aims to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards. Division 2 relates specifically to Secondary Dwellings. The following clauses of this SEPP apply to the proposed development:

Clause 20 – Land to which Division Applies

The subject site is zoned R2 Residential under the provisions of the Warringah LEP. Secondary dwellings are permitted on land zoned R2 with consent.

Clause 22 – Development may be carried out with Consent

Subclause 3 provides:

- (3) *A consent authority must not consent to development to which this Division applies unless:*
- (a) *the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and*
 - (b) *the total floor area of the secondary dwelling is no more than 60 square metres or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area.*

The secondary dwelling has a floor area of 75m². It is noted that clause 6.10 in the Warringah LEP provides:

- (3) *Despite clause 5.4 (9), development consent may be granted for development for the purposes of a secondary dwelling on land to which this clause applies if:*
- (a) *the total floor area of the secondary dwelling does not exceed 75 square metres, and*
 - (b) *the consent authority is satisfied that the secondary dwelling will be located entirely within an existing principal dwelling that contains no other secondary dwelling.*

The works provide for a change of use only with the secondary dwelling being located wholly within the existing principal dwelling on site.

The proposal complies with this clause.

Subclause 4 provides:

- (4) *A consent authority must not refuse consent to development to which this Division applies on either of the following grounds:*
- (a) *site area*
if:
 - (i) *the secondary dwelling is located within, or is attached to, the principal dwelling, or*
 - (ii) *the site area is at least 450 square metres,*
 - (b) *parking*
if no additional parking is to be provided on the site.

The site has an area of 624.4m² and the existing garage which provides parking for 2 cars on site will be retained. In addition, there is parking available forward of the garage.

There are no other provisions of the SEPP that apply to the proposed development. The proposed secondary dwelling is permissible under the provisions of this SEPP and the proposal complies with the relevant controls.

5.3 Warringah Local Environmental Plan 2011

The site is zoned Residential R2 under the provisions of the WLEP 2011. The proposed change of use to create a secondary dwelling is permissible in this zone with the consent of Council.

It is noted that the proposed secondary dwelling is pursuant to the provisions of SEPP (Affordable Housing) 2009 and the SEPP overrides the LEP. In this regard where there are any inconsistencies between the SEPP and the LEP, the SEPP will prevail. Notwithstanding, the following controls of the LEP apply to the proposed development:

Clause 4.3 Height

This clause provides for a maximum height of 8.5m. This proposal does not provide for any physical works. The secondary dwelling is contained within the existing dwelling and does not exceed a height of 8.5m. The proposal complies with this clause.

Clause 5.4 Controls relating to Miscellaneous Permissible Uses

This clause provides:

9. *If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater:*
- (a) 60 square metres,*
 - (b) 11% of the total floor area of the principal dwelling.*

Comment: See discussions in response to Clause 6.10 below.

Clause 6.10 Development for the Purpose of Secondary Dwellings in Zones R2 and R3

This clause provides:

- (3) Despite clause 5.4 (9), development consent may be granted for development for the purposes of a secondary dwelling on land to which this clause applies if:*
- (a) the total floor area of the secondary dwelling does not exceed 75 square metres, and*
 - (b) the consent authority is satisfied that the secondary dwelling will be located entirely within an existing principal dwelling that contains no other secondary dwelling.*

Comment: The proposal provides for a secondary dwelling with a floor area of 75m² and is located entirely within the existing dwelling. The proposal complies with this clause.

There are no other specific clauses of the LEP that apply to the proposed development.

5.4 Warringah Development Control Plan 2011

Council's Warringah DCP 2011 provides a range of outcomes and controls which form the primary criteria for the control for development within the land identified in LEP 2011.

The Warringah Development Control Plan (DCP) has been prepared by Council and was due to come into effect upon the gazettal of the LEP 2011. The new DCP contains detailed planning controls that support LEP 2011.

This application merely seeks approval for the change of use to allow for a secondary dwelling and does not require any physical works as such the majority of the DCP is not applicable. The following table provides a summary of the relevant controls of the DCP:

Clause	Requirement	Compliance
C2 – Traffic, Access and Safety	Vehicular crossing to be provided in accordance with Council's Vehicle Crossing Policy	Yes Existing vehicular crossings retained.
C3 – Parking Facilities	Garages not to visually dominate façade Parking to be in accordance with AS/NZS 2890.1	Yes Proposal retains the existing double garage with additional parking forward of the garage.
C4 - Stormwater	To be provided in accordance with Council's Stormwater Drainage Design Guidelines for Minor Developments & Minor Works Specification.	Yes The proposal does not increase site cover. All collected stormwater will continue to be existing stormwater system.
C9 – Waste Management	Waste storage area to be provided	Yes There is sufficient area on site for waste and recycling bins within the existing garage and behind the front building line.
D1 – Landscaped Open Space and Bushland	Min 40% Landscaped Area to be maintained	The proposal seeks approval for the change of use of a portion of the existing dwelling. The proposal does not reduce the area of landscaping currently provided on site.
D2 - Private Open Space	Dwelling houses with three or more bedrooms Min 60m ² with min dimension 5m	Yes Site retains existing private open space in the rear yard which is sufficient to service both the principal and secondary dwelling.

Clause	Requirement	Compliance
D3 - Noise	Mechanical noise is to be attenuated to maintain adjoin unit amenity. Compliance with NSW Industrial Noise Policy Requirements	Not Applicable
D4 – Electromagnetic Radiation	Not Applicable	Not Applicable
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	Yes The proposed secondary dwelling will receive reasonable solar access throughout the year.
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.	Yes The proposal is for the change of use to create a secondary dwelling located within the existing dwelling structure and will not result in any additional overshadowing.
D7 - Views	View sharing to be maintained	Yes The secondary dwelling is located within the existing dwelling structure and will not result in any loss of views.

Clause	Requirement	Compliance
D8 - Privacy	This clause specifies that development is not to cause unreasonable overlooking of habitable rooms and principle private open space of adjoining properties.	<p>Yes</p> <p>The proposal provides for the conversion of a portion of the existing dwelling into a secondary dwelling and will not result in any loss of privacy. In this regard the secondary dwelling is located at the lower level and does not provide any opportunity for overlooking.</p> <p>The proposal does not provide for any new window or door openings. The proposed change of use does not result in any loss of privacy to the adjoining properties.</p>
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.	<p>Yes</p> <p>This application is merely for the change of use and does not require any physical works.</p>
D10 – Building Colours and materials	External finishes and colours sympathetic to the natural and built environment	<p>Yes</p> <p>No change to existing external finishes</p>
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.	<p>Yes</p> <p>Existing facilities retained.</p>

Clause	Requirement	Compliance
D20 – Safety and Security	Buildings to enhance the security of the community. Buildings are to provide for casual surveillance of the street.	Yes The existing dwelling continues to provide for a good outlook of the adjoining public road and the dwelling approach. The secondary dwelling provides for habitable windows overlooking the entry area on the rear elevation to enable occupants to view who is approaching the secondary dwelling.
D21 – Provision and Location of Utility Services	Utility services to be provided.	Yes Existing facilities on site.
E1 – Private Property Tree Management	Arboricultural report to be provided to support development where impacts to trees are presented.	Not Applicable Proposal does not require removal of any trees.
E10 – Landslip Risk	Identified on map as part A and part B	The works were all internal and did not require any alteration to the ground levels. As such no further information is required in this regard.

There are no other provisions of the DCP that apply to the proposed development.

6. EP & A ACT - SECTION 79C

The Provisions of any Environmental Planning Instruments

The proposal is subject to the provisions of the Warringah Local Environmental Plan 2011 and the Warringah Development Control Plan. It is considered that the provisions of these documents have been satisfactorily addressed within this report.

There are no other environmental planning instruments applying to the site.

The Likely Impacts of the Development

It is considered that the development will provide for the change of use to allow for a secondary dwelling within the existing dwelling does not have any detrimental impacts. The proposal does not result in the removal of any vegetation and there is sufficient area on site for landscaping. The secondary dwelling is contained within the existing building footprint/envelope and does not require any physical works and as such there will not be any detrimental impacts to the adjoining properties or the character of the locality.

The Suitability of the Site for the Development

The subject site is zoned R2 and the use of an existing building for a secondary dwelling in this zone is permissible with the consent of Council. The development does not require any alteration to the approved building footprint/envelope. The proposal does not result in the removal of vegetation or any reduction in the approved landscaped area.

For these reasons it is considered that the site is suitable for the proposed development.

The Public Interest

It is considered that the proposal is in the public interest in that it will provide an alternative form of housing without impact on the amenity of the adjoining properties or the character of the locality.

7. CONCLUSION

This application seeks approval for the change of use to allow for a secondary dwelling within the existing dwelling. As demonstrated in this report the proposal is consistent with the aims and objectives of the Warringah Local Environmental Plan 2011 and the Warringah DCP. The resultant secondary dwelling does not have any detrimental impact on the amenity of the adjoining properties or the character of the locality.

It is therefore considered that the proposed change of use to allow for a secondary dwelling upon land at **No. 5 Tamworth Place, Allambie Heights** is worthy of the consent of Council.

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