

STATEMENT OF ENVIRONMENTAL EFFECTS

73 HAY STREET, COLLAROY

**DWELLING ALTERATIONS AND ADDITONS & SWIMMING
POOL**

**PREPARED ON BEHALF OF
SketchArc**



NOVEMBER 2021

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1. INTRODUCTION

This application seeks approval for the construction of dwelling alterations/additions including a new swimming pool upon land at Lot 12, Section 11 in DP 7392 which is known as **No. 73 Hay Street, Collaroy**

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

- Environmental Planning & Assessment Act, 1979.
- Warringah Local Environmental Plan 2011.
- Warringah Development Control Plan 2011.

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

- Survey Plan prepared by CMS Surveyors Pty Ltd, Ref No. 16996 and dated 26/02/2021.
- Architectural Plans prepared by SketchArct, Project No. 2113 and dated 27/10/2021.
- BASIX Certificate #A437649_02 and dated 2 November 2021.
- Arboricultural Impact Assessment prepared by Peake Arboriculture and dated 1/11/21.
- Waste Management Plan.

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 subject site is identified as Lot 12, Section 11 in DP 7392 which is known as 73 Hay Street, Collaroy. The site is located on the eastern side of Hay Street to the south of its intersection with Hayman Lane. The site is a rectangular shaped allotment with an area of 696.8m², a street frontage of 15.24m and a depth of 45.72m. The locality is depicted in the following map:



Site Location Map

The site is currently occupied by a single storey clad dwelling with a metal roof. The dwelling is located towards the front western portion of the site. Vehicular access to the site is via a gravel driveway located adjacent to the northern side boundary and provides access to the at grade parking space. A rendered masonry fence with infill slats is erected on the front boundary.

The site has a slight slope from the front northwest corner (RL16.36) towards the rear southeast corner (RL14.85). An easement to drain water benefits the site and extends the width of the rear boundary and ultimately discharges to Pittwater Road.

The site is not a listed heritage item nor is it located within a heritage conservation area.

The site is depicted in the following photographs:



View of Subject Site from Hay Street

The existing surrounding development comprises a mix of one and two storey detached residential dwellings on similar sized allotments. The majority of dwellings are orientated towards the east to maximise water views.

The subject site and existing surrounding development are depicted in the following aerial photograph:



Aerial Photograph of Locality

3. THE DEVELOPMENT PROPOSAL

This proposal seeks approval for the construction of alterations and additions to an existing dwelling including a new swimming pool. The resultant dwelling will be constructed of external cladding pitched metal roof.

At ground floor level the proposal provides for a new attached garage to enable parking for two cars. The garage is to be setback 4.192m to the street frontage with a setback of 900mm to the northern side boundary. An addition behind the garage is also proposed with a setback of 0.9m to the northern boundary. Internal alterations to create an ensuite and internal stair to access the new upper level is also proposed.

The proposal provides for a new first floor level to provide for three bedrooms each with ensuite. The first floor is setback 2.5m from the northern side boundary and 1.15m to the southern side. A deck is proposed along the rear elevation to be accessed from the master bedroom. A 1.8m high privacy screen is proposed along the southern elevation.

The proposal also provides for a new swimming pool. The pool is proposed to be located in the rear yard and is setback 2.0m from the southern side boundary. The pool is located near ground level.

A new detached cabana is located towards the rear southeast corner. A setback of 1.0m is proposed to the northern side boundary. A new deck attached to the rear of the pool is setback 1.0m from the rear boundary.

All collected stormwater will be discharged to the existing drainage easement which ultimately disperses to the street gutter in Pittwater Road.

The proposal will result in the following numerical indices:

Site Area:	696.8m ²
Proposed Landscaped Area:	290.09m ² or 41.6%

4. 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.

4.1 Planning for Bushfire Protection 2006

The subject site is not identified as bushfire prone land on Council's Bushfire Prone Land Map and therefore the provisions of Planning for Bushfire Protection 2006 do not apply.

4.2 Warringah Local Environmental 2011

The Warringah Local Environmental Plan 2011 (LEP 2011) came into effect on Friday 9 December 2011.



Extract of Zoning Map

The site is zoned R2 Low Density Residential. Development for the purposes of a dwelling alterations/additions and ancillary development is permissible in this zone with the consent of Council. The following Development Standards specified in the LEP are relevant to the proposed development:

Clause	Development Standard	Proposal	Compliance
4.3 Height	8.5m	8.87m	Refer to Clause 4.6 Variation in Appendix 1.

The following provisions are also relevant:

Clause 6.4 Development on Sloping Land

The site is classified as Class A on Council's Landslip Map. There is no further information required in this regard.

There are no other provisions of the Warringah Local Environmental Plan 2011 that apply to the proposed development.

4.3 Warringah Development Control Plan 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.

The following table provides a summary of the relevant controls of the DCP:

Clause	Requirement	Compliance
B1 – Wall heights	7.2m	The non-compliance with the wall height is identified on the plans. A Clause 4.6 Variation has been provided in Appendix 1 to support the non-compliance with the overall height control and also provides justification this non-compliance.
B2 – Number of storeys	Not Applicable	Not Applicable
B3 - Side Boundary Envelope	Building envelope 45 degrees from 4m. Eaves up to 675mm are an allowable encroachment	The proposal results in a minor non-compliance with the building height envelope, however it is considered justified in this instance for the following reasons:

Clause	Requirement	Compliance
		• When viewed from the street (west elevation) the provides for a well-articulated built form which does not result in unreasonable bulk or scale and is compatible with the surrounding development. • The additions are well articulated and provide for appropriate modulation to ensure a development of appropriate bulk and scale. • The proposal does not result in any significant overshadowing. • The proposal does not result in loss of any significant views.
B4 – Site Coverage	Not Applicable	Not Applicable
B5 - Side Boundary setbacks	Minimum: 0.9m	Yes The proposal provides for setbacks of 0.9m and 1.46m to the sites northern and southern boundaries, respectively.
B7 – Front Boundary Setbacks	Minimum 6.5m Secondary frontage 3.5m	The proposal provides for front setbacks ranging from 4.192m to the garage. This is considered appropriate for the following reasons: • The site is located on the low side of the street and the proposed additions are not dominant in the streetscape.

Clause	Requirement	Compliance
		• The front façade is well articulated with varied setbacks, balconies and architectural features. • The setbacks proposed are compatible with the existing surrounding development, with particular reference to the property to the north, No. 75 Hay Street. • The site currently only provides for at grade parking located within the front setback. There is no alternative location for parking on site for two cars.
B9- Rear Boundary Setbacks & B10 Merit Assessment of Rear Setbacks	6.5m	Yes The swimming pool does not exceeds the 50% rear setback area and is an allowable encroachment.
B11 – Foreshore Building Setback	Not applicable	Not Applicable
B12 – National Parks Setback	Not applicable	Not Applicable
B13 – Coastal Cliffs Setback	Not applicable	Not Applicable
B14 – Main Roads Setback	Not applicable	Not Applicable
B15 – Minimum Floor to Ceiling Height	Not applicable	Not Applicable

Clause	Requirement	Compliance
C2 – Traffic, Access and Safety	Vehicular crossing to be provided in accordance with Council's Vehicle Crossing Policy	Yes The proposal will provide for a new vehicular crossing and driveway and in accordance with Council's policy. Currently the crossover is unpaved.
C3 – Parking Facilities	Garages not to visually dominate façade Parking to be in accordance with AS/NZS 2890.1	Yes. The site currently provides for on site parking within the front setback. This application seeks to provide covered parking for two cars. The is well integrated into the dwelling. The proposed garage is provided with an appropriate front setback, given the existing surrounding development and opportunities of the site. The resultant façade is appropriate in this location and does not detract from the streetscape.
C4 - Stormwater	To be provided in accordance with Council's Stormwater Drainage Design Guidelines for Minor Developments & Minor Works Specification.	Yes The proposal provides for all collected stormwater to drain to the existing drainage easement and in accordance with Council controls.
C5 – Erosion and Sedimentation	Soil and Water Management required	Yes A Soil Erosion Management Plan has been prepared and forms part of the submission to Council.

Clause	Requirement	Compliance
C6 - Building over or adjacent to Constructed Council Drainage Easements	Not Applicable	Not Applicable
C7 - Excavation and Landfill	Site stability to be maintained	Yes Minimal excavation proposed.
C8 – Demolition and Construction	Waste management plan required	Yes Waste Management Plan submitted.
C9 – Waste Management	Waste storage area to be provided	Yes There is sufficient area on site for waste and recycling bins.
D1 – Landscaped Open Space and Bushland	Min 40% Landscaped Area to be maintained	Yes. The proposal provides for a landscaped area of 290.09m ² or 41.6% of the site, which complies with this clause.
D2 - Private Open Space	Dwelling houses with three or more bedrooms Min 60m ² with min dimension 5m	Yes The proposal provides for sufficient private open space in the rear yard. This open space is directly accessible from the living areas and is level.
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

Clause	Requirement	Compliance
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 dwelling will receive good solar access throughout the year. A BASIX certificate has been issued and forms part of the submission to Council.
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 provides for additions to the existing dwelling. Shadow diagrams have been provided which demonstrate that the rear private open space will receive more than 3 hours solar access on the winter solstice.
D7 - Views	View sharing to be maintained	Yes The subject site and surrounding do not enjoy any significant views.
D8 - Privacy	This clause specifies that development is not to cause unreasonable overlooking of habitable rooms and principle private open space of adjoining properties.	Yes The proposed additions have been designed to ensure privacy of the adjoining properties. The upper level provides for only bedrooms and bathrooms. Whilst there is a sitting room, this is located within the master bedroom and is not considered to be a high use area.

Clause	Requirement	Compliance
		The deck on the rear elevation upper level services only the main bedroom and provides for a privacy screen on the southern elevation to prevent overlooking.
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.	Yes The resultant two-storey dwelling is compatible with the existing surrounding development. The proposal provides for appropriate articulation, varied setbacks and architectural relief. The proposed finishes improve the aesthetics of the dwelling and provide for an appropriate outcome for the site.
D10 – Building Colours and materials	External finishes and colours sympathetic to the natural and built environment	Yes External finishes selected to be compatible with the existing surrounding development and the natural environment.
D11 - Roofs	The LEP requires that roofs should not dominate the local skyline.	Yes The proposed additions provide for a conventional pitched roof form which is compatible with the variety of roof forms in the locality.
D12 – Glare and Reflection	Glare impacts from artificial illumination minimised. Reflective building materials to be minimized.	Yes The proposal will not result in unreasonable glare or reflection.

Clause	Requirement	Compliance
D13 - Front Fences and Front Walls	Front fences to be generally to a maximum of 1200mm, of an open style to complement the streetscape and not to encroach onto street.	Not Applicable
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.	Yes There is ample area on site for storage and site facilities.
D15 – Side and Rear Fences	Side and rear fences to be maximum 1.8m and have regard for Dividing Fences Act 1991.	Yes
D16 – Swimming Pools and Spa Pools	Pool not to be located in front yard or where site has two frontages, pool not to be located in primary frontage. Siting to have regard for neighbouring trees.	Not Applicable
D17 – Tennis Courts	N/A	Not Applicable
D18 - Accessibility	Safe and secure access for persons with a disability to be provided where required.	Not Applicable
D19 – Site Consolidation in the R3 and IN1 Zone	Not Applicable	Not Applicable

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 dwelling will retain views of the street and dwelling approach. The additions incorporate a formal entry and pedestrian access to the front façade.
D21 – Provision and Location of Utility Services	Utility services to be provided.	Yes Existing facilities on site.
D22 – Conservation of Energy and Water	A BASIX Certificate is required.	Yes
D23 - Signs	Not Applicable	Not Applicable
E1 – Private Property Tree Management	Arboricultural report to be provided to support development where impacts to trees are presented.	Yes An Arboricultural Report has been submitted with the application.
E2 – Prescribed Vegetation	Not identified on map	Not Applicable
E3 – Threatened species, populations, ecological communities	Not identified on map	Not Applicable
E4 – Wildlife Corridors	Not identified on map	Not Applicable
E5 – Native Vegetation	Not identified on map	Not Applicable
E6 - Retaining unique environmental features	Unique or distinctive features within a site to be retained	Not Applicable
E7 – Development on land adjoining public open space	N/A – not identified on map	Not Applicable
E8 – Waterways and Riparian Lands	Not identified on map	Not Applicable
E9 – Coastline Hazard	Not identified on map	Not Applicable

Clause	Requirement	Compliance
E10 – Landslip Risk	Identified on map as Class A	No further information required.
E11 – Flood Prone Land	Not Applicable	Not Applicable

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

5. EP & A ACT - SECTION 4.15

The Provisions of any Environmental Planning Instruments

The proposal is subject to the provisions of the Warringah Local Environmental Plan 2011. The site is zoned R2 Low Density Residential under the provisions of the LEP. Construction of dwelling alterations/additions are permissible with the consent of Council in this zone. It is considered that the provisions of this document have been satisfactorily addressed within this report and that the proposal complies with the relevant provisions.

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 construction of dwelling alterations/additions without any detrimental impact on the environment, social and economic status of the locality. The proposal does not require the removal of any vegetation and there is no detrimental impact on the adjoining properties.

The Suitability of the Site for the Development

The subject site is zoned R2 Low Density Residential and the construction of dwelling alterations/additions in this zone is permissible with the consent of Council. The resultant dwelling is of a bulk and scale that is consistent with the existing surrounding development.

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 for dwelling alterations/additions that are consistent with other development in this locality without impacting the amenity of the adjoining properties or the public domain.

6. CONCLUSION

This application seeks approval for the construction of a dwelling alterations/additions. As demonstrated in this report the proposal is consistent with the aims and objectives of the Warringah Local Environmental Plan 2011. The proposed development 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 construction of dwelling alterations/additions and swimming pool at **No. 73 Hay Street, Collaroy** is worthy of the consent of Council.

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November 2021

APPENDIX 1

Clause 4.6 – Exception to Maximum Height of Buildings Development Standard Proposed Dwelling Alterations/Additions 73 Hay Street, Collaroy

Introduction

The subject site is identified as Lot 12, Section 11 in DP 7392 which is known as 73 Hay Street, Collaroy. The site is located on the eastern side of Hay Street to the south of its intersection with Hayman Lane. The site is a rectangular shaped allotment with an area of 696.8m², a street frontage of 15.24m and a depth of 45.72m.

The non-compliance with the height of building development standard is a direct result of the floor levels of the existing dwelling and providing for a pitched roof form to match the existing dwelling. The non-compliance does not result in any detrimental impacts to the adjoining properties.

The proposal seeks approval for a variation to the maximum height of building (Height of Buildings) development standard in clause 4.3 of the Warringah Local Environmental Plan 2011.

4.3 Height of Buildings

- (1) *The objectives of this clause are as follows—*
- (a) *to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
 - (b) *to minimise visual impact, disruption of views, loss of privacy and loss of solar access,*
 - (c) *to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,*
 - (d) *to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.*
- (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 Height of Buildings Map indicates that the maximum building that applies to the Site is 8.5m.

The proposal results in a maximum building height of 8.87m, a non-compliance of 0.37m or 4.35% variation.

This clause 4.6 written request has been prepared having regard to clauses 4.3 and 4.6 of the Warringah Environmental Plan 2011 and recent judgments of the Land and Environment Court. It is concluded that the variation is well founded.

1. Objectives of Clause 4.6

The objectives of Clause 4.6 of the LEP are:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

2. The standard to be varied is a Development Standard to which Clause 4.6 applies

Clause 4.3 of the Warringah Local Environmental Plan 2011 is contained within Part 4 and is titled Development Standards to be complied with. I am of the opinion that the wording of the clause is consistent with previous decisions of the Land & Environment Court in relation to matters which constitute development standards.

Clause 4.3 does not contain a provision which specifically excludes the application of clause 4.6 and vice a versa.

I consider that clause 4.3 is a development standard to which clause 4.6 applies.

3. Compliance with the development standard is unreasonable or unnecessary in the circumstances of this case

Sub-clause 4.6(3) sets out the matters that must be demonstrated by a written request seeking to justify a contravention of the relevant development standard:

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

In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC118, Preston CJ sets out ways to demonstrate that compliance with a development standard is unreasonable or unnecessary, although he emphasised that his list was not exhaustive. These include:

- The objectives of the development standard are achieved notwithstanding non-compliance with the standard.

- The underlying objective or purpose of the standard is not relevant to the development.
- The underlying objective or purpose would be defeated or thwarted if compliance was required.
- The standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard or
- The zoning of the land was unreasonable or inappropriate such that the standards for that zoning are also unreasonable or unnecessary.

The proposal results in a dwelling that presents as two storeys when viewed from the streetscape and public domain. This is comparable with the existing surrounding development in the immediate vicinity. The proposed height is appropriate for the scale of the Collaroy locality, with the front portion of the dwelling complying with the height controls. It is only the rear portion of the additions that do not comply.

The proposed additions have been carefully designed to present as a two storey dwelling with the non-complying component of the roof form behind the front facade.

The objectives of the Height of Buildings standard are set out in clause 4.3(1) of Warringah Local Environmental Plan 2011:

- (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 objectives of the building height standard is achieved notwithstanding and because of the non-compliance, in light of the following:

- a. The proposal presents as a two storey dwelling when viewed from Hay Street. This is compatible with the existing locality and the desired future character. The proposed additions provide for a roof form of the same pitch as the existing dwelling which results in a non-compliance with the height standard. The proposal complies with objective (a).
- b. Shadow diagrams have been prepared and submitted with the application. The proposed additions do not result in any significant overshadowing. The proposed additions provide for an appropriate visual outcome. The front elevation is provided with good articulation with varied setbacks. The proposal will not disrupt existing views from the surrounding properties. The proposal achieves objective (b).
- c. The proposed additions will not be visible from the coast or bushland areas. The proposal complies with objective (c)

- d. When viewed from the street the proposal provides for an appropriate presentation with this elevation provided with good articulation. The proposal complies with objective (d).

Compliance with the standard is unreasonable because, the underlying objective or purpose of the standard would be defeated or thwarted if compliance was required.

The non-compliance with the height controls is a result of the levels and location of the existing dwelling on site and adopting a roof pitch of the existing dwelling. A complying addition would reduce the ridge height of the rear ridge which would not serve any benefit.

4. There are sufficient environmental planning grounds to justify contravening the development standard

The non-compliance is a direct result of the levels of the existing dwelling a desire to provide a roof to complement the existing dwelling. The non-complying portion is very minor being only 370mm and located at the rear of the site and not visible from the street. Reducing the rear roof form to ensure compliance with the height control would not have any impact on views or bulk and scale.

The area of non-compliance is very minor and is not discernible from the public domain.

No unreasonable impacts upon the amenity of the adjoining properties particularly in relation to visual and acoustic privacy or overshadowing result from the non-compliant height of building.

The amended design promotes an objective of the Environmental Planning and Assessment Act 1979 section 1.3 in that the proposal will provide for the “good design and amenity of the built environment”.

The contravention is justified by the following environmental planning grounds:

- The site is constrained by the existing dwelling and the adopted floor levels. The proposed additions reduce the extent of the existing non-compliance.
- The area of non-compliance is not visible from the street and does not result in any detrimental impacts.

5. Is the proposed development 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.

The proposed development is consistent with the objectives of the Height of Buildings development standard, which is demonstrated in the analysis in section 3.

The proposed development is also consistent with the R2 Low Density Residential Zone objectives in Warringah Local Environmental Plan 2011.

The objectives for the R2 – Low Density Residential 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.*

Objective 2 and 3 are not applicable. The proposal is consistent with the first objective given that:

1. The proposal provides for the housing needs of the community within a low density residential environment via the provision of additions to an existing detached dwelling house.

As the proposal is consistent with the relevant objectives of the Height of Buildings development standard and the objectives of the R2 Low Density Residential Zone the proposed development is considered to be in the public interest in satisfaction of clause 4.6(4)(a)(ii).

6. Whether contravention of the development standard raises any matter of significance for State or regional environmental planning.

Sub-clause 4.6(4) requires that the consent authority is satisfied that the concurrence of the Planning Secretary has been obtained and sub-clause 4.6(5) enumerates matters that the Planning Secretary must consider in deciding whether to grant concurrence.

The Planning Secretary has given written notice dated 5 May 2020, attached to the Planning Circular PS 20-002, that the Planning Secretary's concurrence may be "assumed" for exceptions to development standards, subject to certain conditions contained in the notice.

Further, it is my opinion that contravention of the standard does not raise any matters of significance for State or Regional environmental planning and there is no identifiable public benefit in maintaining the development standard.

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