

STATEMENT OF ENVIRONMENTAL EFFECTS

**Demolition and
development of Multi
Dwelling Housing**

**439 Condamine Street,
Allambie Heights**

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1 Introduction

1.1 Description of the proposed development

This report is a Statement of Environmental Effects (SEE), pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979.

The development application seeks consent for demolition of the existing development and development of multi-dwelling housing for 6 dwellings at 439 Condamine Street, Allambie Heights. The proposal is depicted in the accompanying architectural plans by Walsh Architects. A summary of the key aspects of the proposal are noted as follows:

In summary, the key aspects of the proposal are noted as follows:

- The demolition of the existing dwellings and structures.
- Development of multi-dwelling housing comprising the following:
 - 6 dwellings over 2-3 storeys, each containing 3 bedrooms most with internal access from each basement garage
 - Basement level containing vehicle parking and waste storage
 - Private open spaces at the ground level adjacent to living rooms
 - Landscape areas surrounding the proposed building.
- The construction of a new driveway and basement car parking and storage level containing 12 car parking spaces, including 11 resident spaces and 1 visitor space. Bicycle storage spaces within the garage of each dwelling, as marked on the architectural plans.
- A garbage bin storage area is located at the front of the proposed building with direct access from the street frontage. The waste areas will be accessible to all future residents of the property and waste collectors.
- Proposed landscaping works are depicted in the accompanying landscaping plans. Landscaping works include (but are not limited to) vegetation removal, excavation, retaining walls, front fence, various plantings, and private courtyard areas.
- All stormwater disposal has been designed to meet the relevant standards and Council policy as detailed in the accompanying documentation.
- The car parking and vehicle access configuration has been designed to satisfy the appropriate standards. The proposal is accompanied and supported by a traffic and parking impact assessment.

External works

- driveway
- pathways
- rear terrace
- planters
- stormwater.
- Excavation as shown

- Fill and retaining walls as shown
- Landscape planting as shown
- Landscaped works as shown.

1.2 Statement of Environmental Effects

This Statement of Environmental Effects (SEE) is prepared in response to Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposal has been considered under the relevant provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979.

In preparation of this document, consideration has been given to the following:

- Environmental Planning and Assessment Act, 1979
- Local Environmental Plan
- Relevant State Environmental Planning Policies
- Development Control Plan

The proposal is permissible and generally in conformity with the relevant provisions of the above planning considerations.

Overall, it is assessed that the proposed development is satisfactory, and the development application may be approved by Council.

2 Site Analysis

2.1 Site and location description

The site is located at 439 Condamine Street, Allambie Heights and legally described as Lot 1 in Deposited Plan 133575.

The site is irregular in shape with a street frontage of 23.56 metres, rear boundary of 27 metres, depth of approximately 45.72 metres with an additional area to the southwestern corner of the property. The site has an area of 1,125m². There is vegetation within the front of the property.

The residential development on the property is positioned towards the rear boundary with a significant front setback to Condamine Street. There is a studio with metal roof positioned within the southwestern corner of the property close to the property boundaries.

The land is zoned R2 - Low Density Residential under the Warringah LEP 2011. The land is not identified in the LEP as being affected by heritage conservation, flooding bushfire, biodiversity, riparian, or landslip.

The land is affected by overland flow flooding, acid sulphate soils [Class 5]. The land also adjoins a classified road being Condamine Street which conveys significant public transport [bus] services.

The land is opposite RE1 zoned public open space in the form of Warringah Golf Course.

The land is within 400m [approx. 260m] walking distance of the south edge of 'Warringah Mall' which is a nominated town centre identified on the Housing SEPP's Town Centres Map.

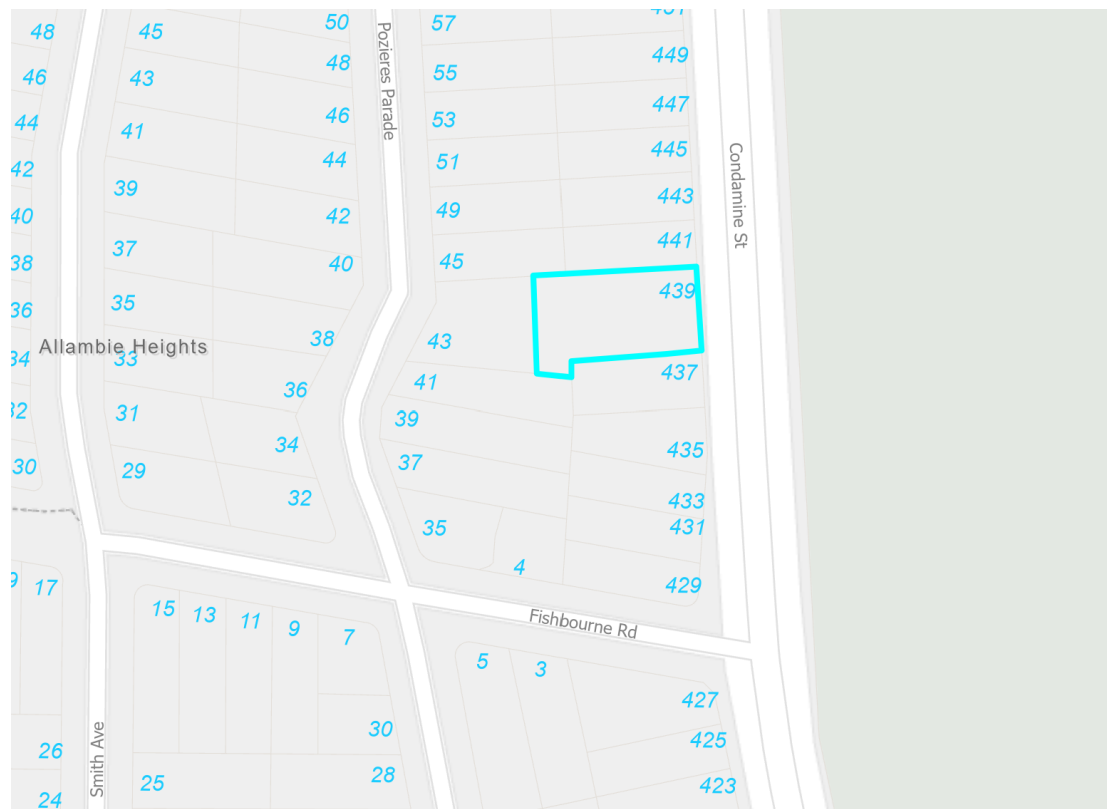


Figure 1 – Location of the site within its wider context (courtesy Northern Beaches Council Mapping)

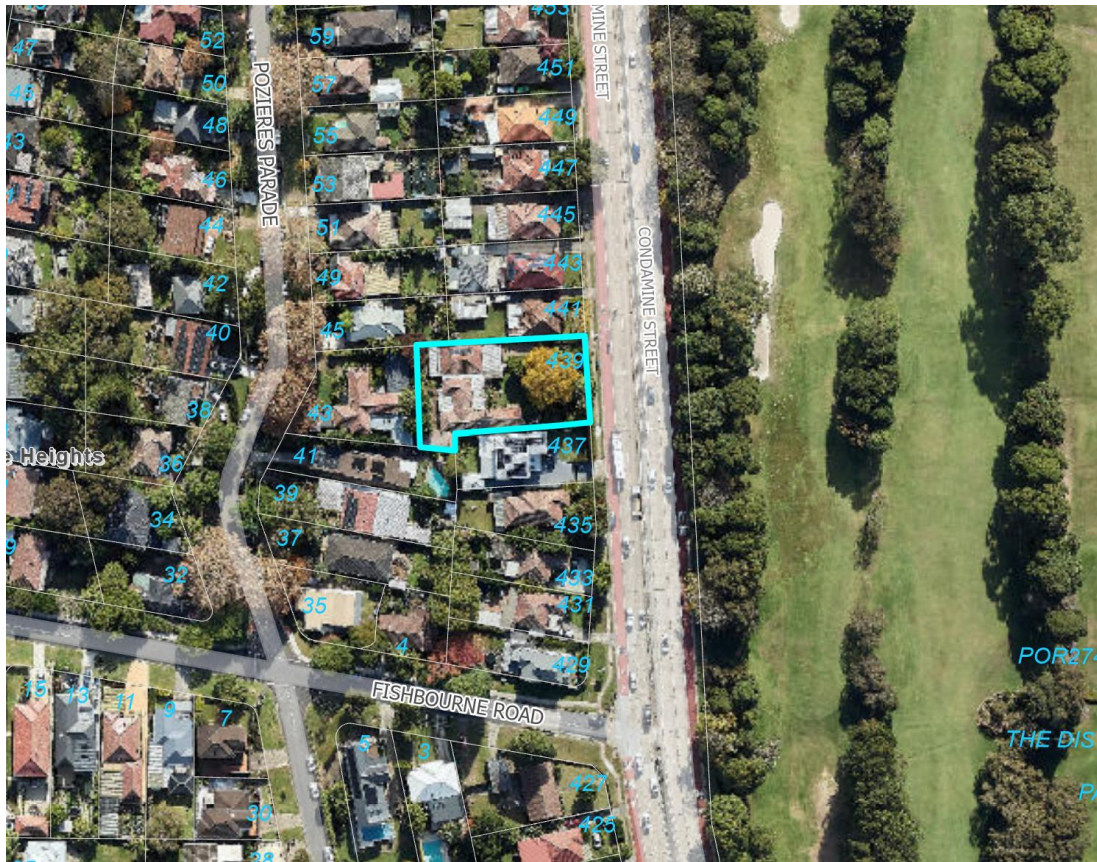


Figure 2 – Alignment, orientation and configuration of the subject site and adjoining properties (courtesy Northern Beaches Council Mapping)

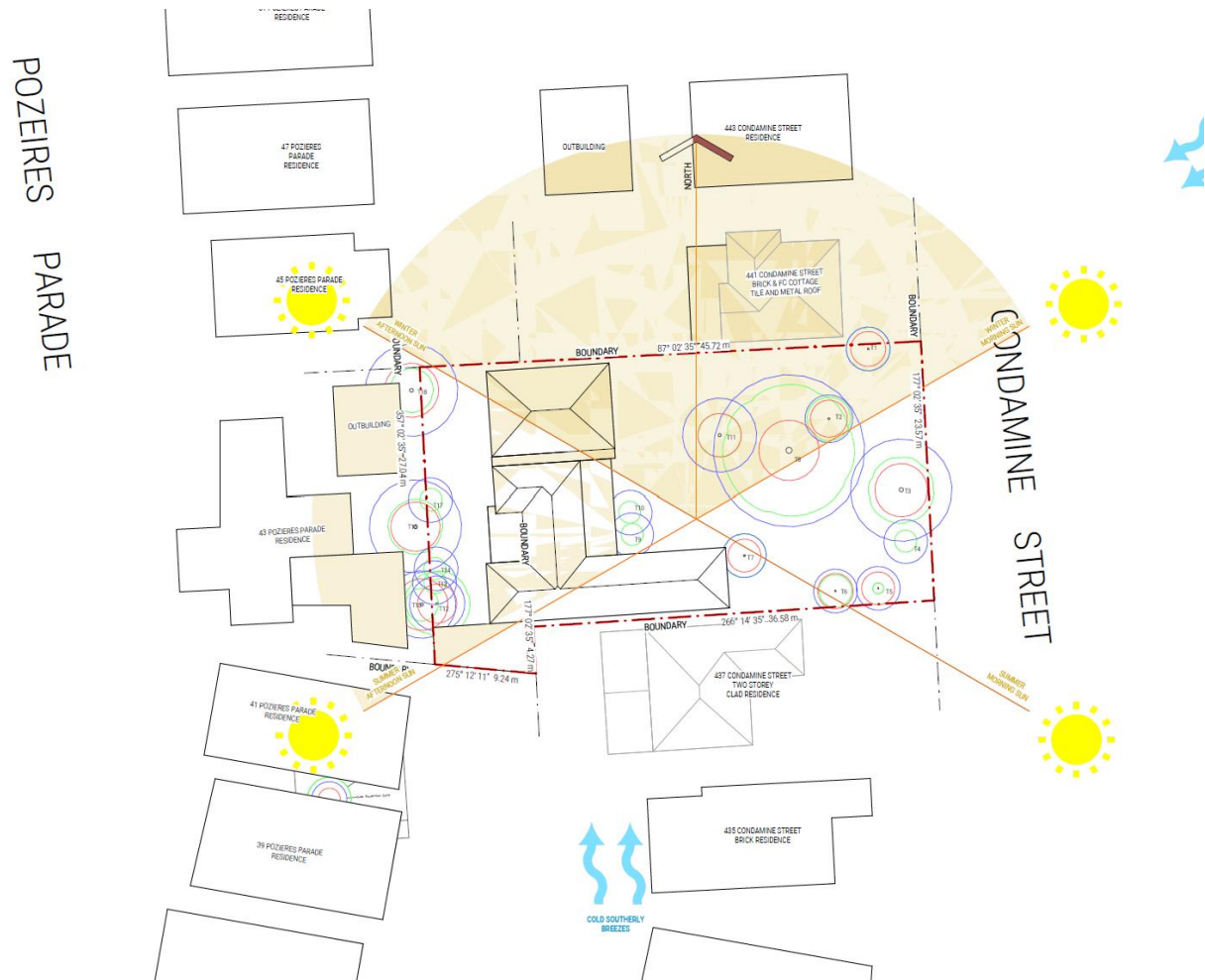


Figure 3 – site analysis plan showing the existing development footprint on the site and properties surrounding



Figure 4 – existing site's streetscape character and vehicle entry



Figure 5 – streetscape character looking north to Warringah Mall Centre



Figure 6 – streetscape character opposite to Warringah Golf Course

3 Environmental Assessment

3.1 Section 4.15 of the Environmental Planning & Assessment Act, 1979

The following section of the report assesses the proposed development having regard to the statutory planning framework and matters for consideration pursuant to Section 4.15 of the Environmental Planning & Assessment Act, 1979 as amended.

Under the provisions of the Environmental Planning and Assessment Act 1979 (the Act), the key applicable planning considerations, relevant to the assessment of the application are:

- Warringah Local Environmental Plan 2011
- State Environmental Planning Policies – as relevant
- Warringah Development Control Plan

The application of the above plans and policies is discussed in the following section of this report.

The application has been assessed against the relevant heads of consideration under Section 4.15 of the Act; a summary of these matters are addressed within Section 7 of this report, and the town planning justifications are discussed below.

4 Section 4.15 (1)(i) the provisions of any environmental planning instrument

4.1 Warringah Local Environmental Plan 2011

4.1.1 Zoning

The property is zoned R2 Low Density Residential under the Warringah Local Environmental Plan 2011 (LEP) as is most of the surrounding land.

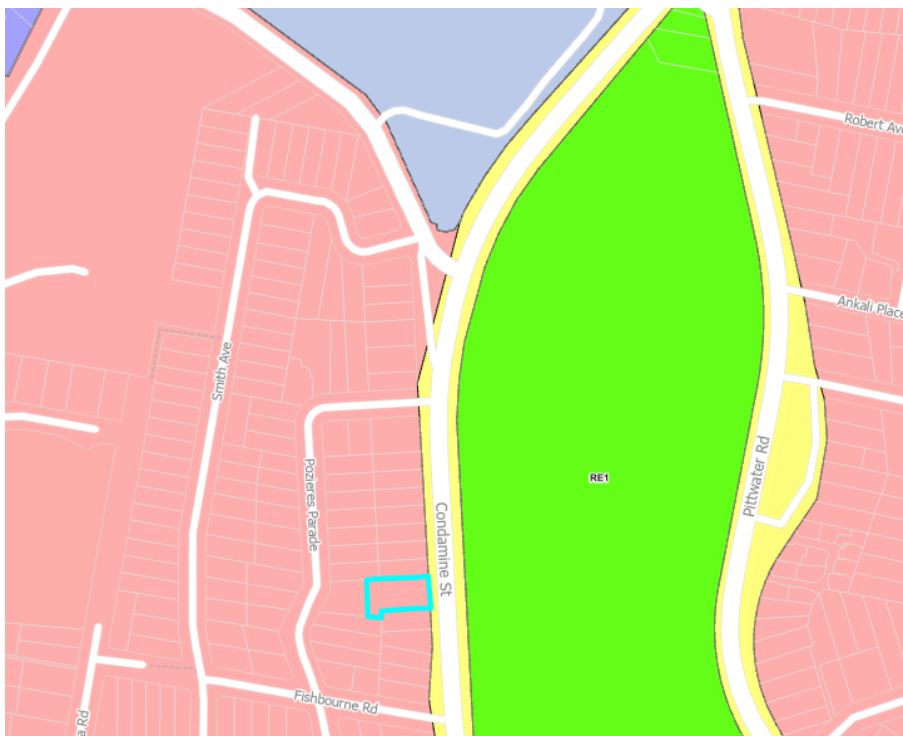


Figure 7 – zoning map excerpt (Council's website)

The proposal constitutes demolition and development of multi-dwelling housing for 6 dwellings. The proposal is permitted within the zone with development consent pursuant to Chapter 6 of State Environmental Planning Policy (Housing) 2021 and LEP clause 2.6, which are each addressed below.

Clause 2.3(2) of the LEP requires the consent authority to 'have regard to the objectives for development in a zone' in relation to the proposal. The objectives of the zone are stated 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”.

It is assessed that the proposed development is consistent with the zone objectives as it will provide for the housing needs of the community within a low density residential environment, within a landscaped setting, compatible with the surrounding development. Accordingly, the proposal has had sufficient regard to the zone objectives and there is no statutory impediment to the granting of consent.

4.2 Other relevant provisions of the LEP

Other provisions of the LEP that are relevant to the assessment of the proposal are noted and responded to as follows:

LEP Provision	Response	Complies
Part 4 of LEP – Principal Development Standards		
LEP Clause 4.1 Minimum subdivision	NA	NA
LEP Clause 4.3 – Height of Buildings 8.5m	Chapter 6 of State Environmental Planning Policy Housing [2021] is applicable to the property and establishes a 9.5m building height. This development standard is not applicable to the proposed development. Addressed below.	NA
LEP Clause 4.4 – Floor space ratio	NA.	NA
LEP Clause 4.6 – Exceptions to development standards	NA.	NA
Part 5 of LEP – Miscellaneous Provisions		
LEP Clause 5.10 Heritage Conservation	The site is not identified as a heritage item, within the visual catchment of a heritage item, or within a conservation area.	NA
LEP Clause 5.21 Flood planning	<p>Council’s maps do not identify the site as being affected however the applicant’s engineer has advised that the property is impacted by a nearby overland flow path.</p> <p>This matter is addressed in the documents accompanying the development application.</p> <p>The proposed development is accompanied by a flood risk management assessment report. It confirms that the property is capable of accommodating the proposed development without inappropriate impacts on neighbouring land.</p> <p>The proposal is elevated off the ground to allow floodwaters to move beneath it and is of a small building footprint/area relative to the</p>	Yes

LEP Provision	Response	Complies
	<p>extent of buildings on the site, adjoining properties, and the development anticipated within the zone. Furthermore, the business zoning allows for full coverage of the property, without provision for non-built upon landscaped areas. Therefore, the proposal will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties.</p> <p>The proposal is on a property that includes a first floor level facilitating safe occupation of the land during a flood event. Furthermore, there remains adequate egress to and from the front and rear the property. Therefore, the proposal will not inappropriately affect the safe occupation or efficient evacuation of people in the event of a flood. Noting the above, the proposal incorporates appropriate measures to manage risk to life in the event of a flood.</p> <p>The proposal is not within proximity to riparian land water courses. the proposal will not adversely affect the environment by causing avoidable erosion, siltation.</p> <p>The design has appropriately responded to the flood planning levels.</p> <p>The matters for consideration within clause 5.21 have been appropriately addressed.</p> <p>Based on the above the proposed development satisfies the considerations within clause 5.21 and the site is suitable for the development proposed.</p>	
Part 6 of LEP – Additional Local Provisions		
LEP Clause 6.1 Acid sulfate soils	<p>The site is identified as being within class 5 acid sulfate soils. Excavation for a basement parking level is proposed below the existing site levels which are at approximately RL 5.5 and is above RL 5.</p> <p>Based on the above the proposed development satisfies the considerations within clause 6.1 and the site is suitable for the development proposed.</p>	Yes
LEP Clause 6.2 Earthworks	Excavation is proposed below the existing site	Yes

LEP Provision	Response	Complies
	<p>levels. The application is accompanied by a geotechnical assessment, architectural plans, landscape plan and stormwater management plans that demonstrate that the proposal is appropriate for the site.</p> <p>A stormwater management plan accompanies the application and makes appropriate provision for the management of stormwater. Drainage patterns and soil stability are not adversely impacted, and stormwater will be managed in accordance with the stormwater management plan.</p> <p>The landscape plan makes appropriate provision for the design of cut, fill, and treatment of the site's external areas. No inappropriate amenity impacts on neighbouring properties relating to earthworks upon the site are anticipated from the proposed development. This is further addressed within section 5 of this report.</p> <p>The Development Application is accompanied by a waste management plan which addresses the destination of excavated material. Further conditions of development consent may reasonably be imposed to ensure this occurs in an authorised manner. Fill will be sourced from excavated areas within the site.</p> <p>Heritage is not relevant to the proposed development. Not being in a heritage conservation area, it is unlikely relics will be disturbed.</p> <p>There are no drinking water catchments or environmentally sensitive areas proximate to the site.</p> <p>The siting and design of the proposed development has considered the matters within clause 6.2(3) of the LEP and results in appropriate outcomes against these criteria.</p> <p>Based on the above the proposed development satisfies the considerations within clause 6.2 and the site is suitable for the development proposed.</p>	
LEP Clause 6.4 Development on sloping land	The land is identified on the LEP Maps as being within Areas A on the Landslip Risk Maps. No geotechnical assessment is needed	Yes

LEP Provision	Response	Complies
	to accompany the DA and the provisions of the clause are satisfied.	

4.3 State Environmental Planning Policy

4.3.1 State Environmental Planning Policy (Housing) 2021

State Environmental Planning Policy (Housing) 2021, Chapter 6 'Low and mid rise housing', Part 3 'Attached dwellings, multi dwelling housing and multi dwelling housing (terraces)' is applicable to the land and the proposed development.

Division 2 Non-discretionary development standards

The non-discretionary development standards applicable to the land and the proposed multi dwelling housing development are repeated and addressed below.

172 Non-discretionary development standards—multi dwelling housing		
(1) This section applies to development for the purposes of multi dwelling housing on land in a low and mid rise housing area in the following zones—		
(2) The following non-discretionary development standards apply—		
PROVISION	RESPONSE	Complies
(a) a minimum lot size of 600m ² ,	The has an area of 1,125m ² . Survey accompanying.	Yes
(b) a minimum lot width at the front building line of 12m,	The has width of 23.56m – at the front building line.	Yes
(c) if no environmental planning instrument or development control plan that applies to the land specifies a maximum number of car parking spaces per dwelling—a minimum of 1 car parking spaces per dwelling,	The DCP car parking control does not specify a maximum number of car parking spaces per dwelling. 6 dwellings proposed, requiring 6 car spaces. 8 separately accessible car parking spaces are proposed plus 3 tandem spaces for the 6 dwellings; a total of 11 car parking spaces for the dwellings plus 1 visitor parking space.	Yes
(d) a maximum floor space ratio of 0.7:1,	The proposed GFA is 787.2m ² translating to an FSR is: 0.7 to 1, which complies with the development standard.	Yes
(e) a maximum building height of 9.5m.	The architectural plans show a compliant building height, under	Yes

	9.5m.	
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4.3.2 Landscaping and tree canopy

Section 171(2) 'Landscaping—multi dwelling housing ...' states:

'(2) Before granting development consent to development to which this section applies, the consent authority must consider the Tree Canopy Guide for Low and Mid Rise Housing, published by the Department in February 2025'.

In response, consideration has been given to the tree canopy guide, specifically Table 5 'Tree canopy and deep soil – Multi-dwelling housing'. The guide requires the following provision of trees in relation to multi dwelling housing. Based on the site's area of 1,125m²:

- Tree canopy shall cover a minimum 25% of the site area, or in this case 281.25m²
- For every 200m² or part thereof, plant at least one medium tree in the deep soil area. This equates to 5.6 [6] medium trees in the deep soil areas on the subject site.
- Table 2 of the Guide describes the 'assumed tree sizes at maturity' which for a medium tree is 8m minimum diameter and 50 m² canopy area.

In response:

The plans demonstrate that the proposed development accommodates the planting of 6 medium trees, 2 in the front setback and 4 within the rear setback, in accordance with the tree canopy guideline.

LANDSCAPE AREA SCHEDULE (SEPP)		
NAME	AREA	PERCENTAGE
DEEP SOIL	329 m ²	29.3%
LANDSCAPE	58 m ²	5.1%
RECREATION	140 m ²	12.4%
	527 m ²	46.8%

As shown on the architectural plans, the proposed development provides 329m² / 29.3% of deep soil area within the site, approx. 267m² at the rear / sides and 62 m² at the front; 48m² more than the design guide. The design also provides approx. 60 m² of planter areas above the basement slab that have a minimum soil depth of 1 m and will accommodate various plants and small trees as shown on the landscape plan.

The proposed development provides 527 m² / 46.8% of landscaped area within the site. *landscaped area* is defined in the SEPP Housing 2021 [repeated below] and is a combination of deep soil, landscape, and recreation areas. The definition is different from the landscaped area definitions within the Warringah LEP and DCP.

It is assessed that the proposed development satisfies the provisions of the *Tree Canopy Guide for Low and Mid Rise Housing* with the design:

- providing a landscape setting to the site that will be visible from the street and adjoining properties.

- providing sufficient landscaped area and appropriate types and extent of planting to enhance the landscape character of the property including:
 - 6 large trees with mature height of more than 5 m and up to 15 m are proposed.
 - 13 medium trees with mature height of 3m are proposed.
 - Various other plantings as documenting within the proposed planting schedule, repeated below.
- making appropriate provision for planted and recreational areas with each dwelling and the common areas of the development.
- providing a large proportion of native endemic trees and plants that will result in the extent of native vegetation on the site will be increased. This will significantly benefit of the site and the local area.

SCHEDULE OF PLANT MATERIAL

CODE	BOTANICAL NAME	COMMON NAME	QUANTITY	MATURE HEIGHT	CONTAINER SIZE
AAm	<i>Acmena smithii</i> 'Allyn Magic'	Dwarf Lilli Pilli	41	1m	200mm
ASm	<i>Acmena smithii</i> 'Minor'	Dwarf Lilli Pilli	13	3m	200mm
DB	<i>Dianella</i> 'Breeze'	Dianella Breeze	29	0.6m	140mm
DRe	<i>Dichondra repens</i>	Kidney Weed	43	0.4m	140mm
ER	<i>Elaeocarpus reticulatus</i>	Blueberry Ash	3	5m	45 litre
EP	<i>Eucalyptus punctata</i>	Grey Gum	3	15m	45 litre
FP	<i>Ficus pumila</i>	Creeping Fig	7	prostrate	140mm
HS	<i>Hibbertia scandens</i>	Guinea Flower	16	0.4m	140mm
LJr	<i>Liriope</i> 'Just Right'	Turf Lily	8	0.4m	140mm
LS	<i>Lomandra</i> 'Seascape'	Seascape Lomandra	26	0.4m	140mm
MP	<i>Murraya paniculata</i>	Orange Jasmine	8	2m	200mm
PTf	<i>Phormium tenax</i> 'Flamin'	Red NZ Flax	12	1m	140mm
PRr	<i>Photinia</i> 'Red Robin'	Photinea	15	3m	200mm
SAe	<i>Syzygium australe</i> 'Elegance'	Dwarf Lilli Pilli	20	1.5m	200mm
SAP	<i>Syzygium australe</i> 'Pinnacle'	Dwarf Lilli Pilli	55	3m	200mm
VO	<i>Viburnum odoratissimum</i>	Sweet Viburnum	9	2.5m	200mm
VH	<i>Viola hederacea</i>	Native Violet	12	0.1m	140mm
WF	<i>Waterhousea floribunda</i>	Weeping Lillypilly	3	15m	45 litre
WFs	<i>Westringia fruticosa</i> 'Smokey'	Coastal Rosemary	23	1.5m	200mm
WFz	<i>Westringia fruticosa</i> 'Zena'	Dwarf Coastal Rosemary	23	1m	200mm

4.3.3 Key definitions

There are several definitions of deep soil and landscaped area relating to the planning controls within SEPP Housing, the LEP and the DCP. These are repeated below for ease of reference and understanding.

SEPP Housing 2021 defines **landscaped area** as:

"landscaped area means the part of the site area not occupied by a building and includes a part used or intended to be used for a rainwater tank, swimming pool or open-air recreation facility, but does not include a part used or intended to be used for a driveway or parking area." SEPP Housing 2021 / Schedule 10 Dictionary.

Deep soil is defined in the Tree Canopy Guide as follows:

A landscaped area connected horizontally to the soil system and local ground water system beyond and is unimpeded by any building or structure above or below ground with the exception of minor structures.*

Deep soil zones with a minimum dimension of 3m allows sufficient space for the planting and healthy growth of new trees that provide canopy cover

and assist with urban cooling and infiltration of rainwater to the water table. Deep soil also allows for the retention of existing trees.

** Minor structures are defined as:*

- a. path, access ramp or area of paving with a maximum width up to 1.2m*
- b. essential services infrastructure (such as stormwater pipes) with a maximum diameter up to 300mm*
- c. landscape structures (such as lightweight fences, light poles or seating) requiring a footing with a maximum size of up to 300mm x 300mm in cross section.*

The 3 m dimension in deep soil refers to 3 m in every horizontal direction (length and width). This means deep soil is a minimum 9 m² (3 m x 3 m).

The above differs from the LEP dictionary which states:

***'landscaped area'** means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area'.*

The above differs from the DCP definition of **landscaped open space** which states:

'To measure the area of landscaped open space:

- a) Driveways, paved areas, roofed areas, tennis courts, car parking and stormwater structures, decks, etc, and any open space areas with a dimension of less than 2 metres are excluded from the calculation;*
- b) The water surface of swimming pools and impervious surfaces which occur naturally such as rock outcrops are included in the calculation;*
- c) Landscaped open space must be at ground level (finished); and*
- d) The minimum soil depth of land that can be included as landscaped open space is 1 metre'.*



Figure 8 – Location of the site marked by blue arrow on the LMR Indicative Map – within 260m to the south of the nominated Centre

4.3.1 State Environmental Planning Policy - BASIX

The proposed development is BASIX affected development as prescribed. A BASIX assessment report accompanies the application and satisfies the SEPP in terms of the DA assessment.

4.3.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021

The following aspect of State Environmental Planning Policy (Biodiversity and Conservation) 2021 is applicable to the land and the proposed development:

- Chapter 2 - Vegetation in Non-Rural Areas

This matter is addressed below.

Chapter 2 - Vegetation in Non-Rural Areas

Vegetation is prescribed under Warringah DCP for the purposes of the SEPP. The proposal involves development near some existing vegetation, and the potential to adversely impact upon the vegetation has been assessed by the project arborist. An arborist statement accompanies and supports the proposed development.

An arborist's assessment accompanies the application. The report concludes that the proposed development is satisfactory subject to the recommendations contained in this report. These recommendations may reasonably form conditions of development consent.

Based on the above, the provisions of the policy are satisfied by the proposal.

4.3.3 State Environmental Planning Policy (Resilience and Hazards) 2021

The following aspect of State Environmental Planning Policy (Resilience and Hazards) 2021 is applicable to the land and the proposed development:

- Chapter 4 - Remediation of Land

This matter is addressed below.

Chapter 4 – Remediation of Land

Chapter 4 – Remediation of Land applies to all land and aims to provide for a State-wide planning approach to the remediation of contaminated land. Council is required to consider whether land is contaminated prior to granting consent to carrying out of any development on that land. In this regard, the likelihood of encountering contaminated soils on the subject site is low given the following:

- Council's records indicate that site has only been used for residential uses.
- The subject site and surrounding land are not currently zoned to allow for any uses or activities listed in Table 1 of the contaminated land planning guidelines.
- The subject site does not constitute land declared to be an investigation area by a declaration of force under Division 2 of Part 3 of the Contaminated Land Management Act 1997.

Given the above factors no further investigation of land contamination is warranted. The site is suitable in its present state for the proposed residential development. Therefore, pursuant to the provisions of the SEPP, Council can consent to the carrying out of development on the land.

4.3.4 State Environmental Planning Policy Transport and Infrastructure 2021

The proposed development has frontage to a classified road pursuant to S.2.119 of the State Environmental Planning Policy (Transport and Infrastructure) 2021. Key provisions of the policy and repeated and responded to below.

(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.*

Furthermore, the proposed development needs to consider the potential impacts from the roadway of noise or vibration on the proposed development. In this regard S.2.119 of the SEPP is a matter for consideration and the relevant sections are copied below:

‘2.120 Impact of road noise or vibration on non-road development

- (2) Before determining a development application for development to which this section applies, the consent authority must take into consideration any guidelines that are issued by the Planning Secretary for the purposes of this section and published in the Gazette.*
- (3) If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded—*
 - (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am,*
 - (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time”.*

In response to the provisions of Sections 2.119 and 2.120 of the SEPP, the proposed land use is residential accommodation as defined. As such, the proposal is accompanied and supported by an acoustic assessment report and a traffic and parking assessment report which concludes that the proposal is supportable on traffic and parking grounds.

In summary, the proposal satisfies the SEPP noting that:

- A traffic assessment accompanies the application. The proposal will not inappropriately increase traffic generation and satisfies relevant statutory planning and design criteria with regards to the adjacent roadway.
- An acoustic assessment accompanies the application. The report concludes that the proposed development is capable of compliance, subject to the recommendations contained in the report. The report recommendations may reasonably form conditions of development consent.
- The proposal makes appropriate allowance for waste management and collection.

Based on the above, the proposal is assessed as satisfying (Transport and Infrastructure) 2021 as it relates to the site.

4.4 BCA and access considerations

The application is accompanied and is supported by an assessment of the design against the key provisions of the Building Code. The report finds that the proposal is capable of satisfying building safety and access requirements subject to further detailed design and documentation at the Construction Certificate stage. In conclusion, the relevant safety and accessibility considerations are appropriately addressed and satisfied by the proposal.

5 Development Control Plan

5.1 Overview and applicable sections of the DCP

In response to Section 4.15 (1)(iii) of the Act, the Warringah Development Control Plan (DCP) is applicable to development on land the Local Government Area. However, in the circumstances of the DA, Chapter 6 of State Environmental Planning Policy (Housing) 2021 is the principal consideration in assessing the suitability of the proposed built form.

Section 8 of SEPP Housing states:

“8 Relationship with other environmental planning instruments

(1) Unless otherwise specified in this Policy, if there is an inconsistency between this Policy and another environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency”.

Furthermore, a DCP cannot derogate from an environmental planning instrument. The following provisions of the Act are noted. The purpose and status of development control plans is set out in 3.42 *Purpose and status of development control plans* and s3.43(5) and relevantly states:

“(5) A provision of a development control plan (whenever made) has no effect to the extent that—

(a) it is the same or substantially the same as a provision of an environmental planning instrument applying to the same land, or

(b) it is inconsistent or incompatible with a provision of any such instrument”.

The Warringah LEP 2011 does not permit multi dwelling housing in the R2 zone on the land. The Warringah DCP does not contain provisions relating to multi dwelling housing.

Therefore, the development standards within SEPP Housing, are the key determinants of the building envelope for multi dwelling housing on the site and, in various instances, prevails over the built form controls in Part B of the Warringah DCP.

5.2 Part B - Built form controls

A table demonstrating compliance with the relevant provisions of the DCP is detailed as follows. Where a numerical non-compliance is identified, this is addressed separately below the table.

Clause	Requirement	Proposed	Complies?
B1 Wall Height	7.2m	<p>Section 3.43(5) of the Act applies to this control.</p> <p>Building height is a standard set in SEPP Housing and is addressed within Section 4 of</p>	NA

Clause	Requirement	Proposed	Complies?
		this report.	
B2 Number of storeys	2	Not applicable to the land.	NA
B3 Side Boundary Envelope	4m at 45 degrees.	<p>This control seeks to limit the height of the building adjacent to a boundary in a manner that is far less than the 9.5 metres established as a non-discretionary standard in the planning instrument applicable to the assessment of the proposed development.</p> <p>SEPP Housing:</p> <ul style="list-style-type: none"> sets the building height control at 9.5 metres a full metre more than the 8.5 metres set in the LEP. establishes building height as a non-discretionary development standard that the proposal complies with. <p>Application of this control would inappropriately limit the extent of multi-dwelling housing development on the land which the SEPP clearly permits and promotes.</p> <p>For these reasons it is assessed that section 3.43(5) of the Act applies to this control.</p>	NA
B5 Side Setback	900mm [as per map, excerpt in figure below table]	<p>SOUTH SIDE:</p> <p>Basement level – 0.9m to 1.13 to 2.75m</p> <p>Ground floor level – Front block - 4.95m Rear block - 2.7m to 2.8m to 6.83m</p> <p>First level – Front block - 4.8m Rear block - 2.7m to 2.8m to 6.83m</p> <p>NORTH SIDE:</p>	<p>Yes</p> <p>Yes Yes</p> <p>Yes Yes</p>

Clause	Requirement	Proposed	Complies?
		Basement level – 1.73m Ground floor level – Front block – 3.160m Rear block – 1.22m First level – Front block – 3.160m Rear block – 1.22m	Yes Yes Yes Yes Yes
B7 Front Setbacks	Primary 6.5m	Variable – 7.8m to the dwellings 4.5m to the front terraces / Private open space areas- addressed below.	Yes No
Objectives <i>To create a sense of openness.</i> <i>To maintain the visual continuity and pattern of buildings and landscape elements.</i> <i>To protect and enhance the visual quality of streetscapes and public spaces.</i> <i>To achieve reasonable view sharing.</i> Requirements <i>Development is to maintain a minimum setback to road frontages.</i> <i>The front boundary setback area is to be landscaped and generally free of any structures, basements, carparking or site facilities other than driveways, letter boxes, garbage storage areas and fences.</i>		This is assessed as appropriate noting that: <ul style="list-style-type: none"> ▪ The land adjoins a classified road which conveys significant transport. Solid front fences along the busy road are a suitable and notable characteristic of the location [including the subject site] as demonstrated by figures 4 and 5. ▪ An appropriate landscape and streetscape interface is proposed as further addressed below in response to DCP control D13. ▪ The basement parking level maintains a compliant front setback, allowing for adequate deep soil, landscaping, and accommodation of two large canopy trees [at maturity]. The existing streetscape will be significantly enhanced by the proposal. ▪ view sharing is achieved as separately addressed below. 	
B9 Rear Setback	6m	7.5m to the dwellings.	Yes

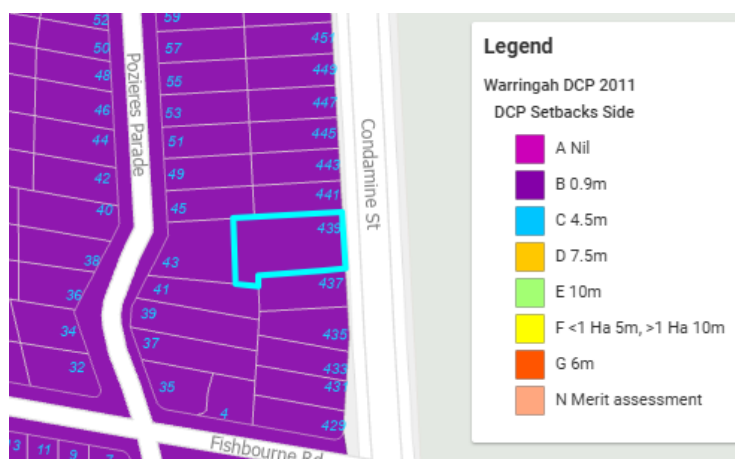


Figure 9 – DCP side setback applicable to the land

5.3 DCP Parts C, D, & E - compliance assessment

A table demonstrating compliance with the relevant provisions of the DCP is detailed as follows.

Clause	Compliance with Requirement	Consistent with aims and objectives
Part C - Siting Factors		
C2 Traffic, Access and Safety A traffic and parking impact assessment report accompanies the development application demonstrating compliance with this control.	Yes	Yes
C3 Parking Facilities Previously addressed.	Yes	Yes
C3(A) Bicycle Parking and End of Trip Facilities Required: 1 space per dwelling and 1 space per 12 for visitors. Provision is available for bicycle parking within the garage areas allocated to each dwelling within the basement level. The proposal is assessed as satisfying the provisions of the control because the proposal will: <ul style="list-style-type: none"> ▪ assist in meeting the transport needs of the community ▪ provide bicycle storage areas that are undercover, secure, convenient to access, and connected to the adjoining roadway by safe egress. 	Yes	Yes

Clause	Compliance with Requirement	Consistent with aims and objectives
<ul style="list-style-type: none"> through convenience and safety for bicycle users, facilitate bicycle usage and help reduce reliance on private motor vehicles. 		
C4 Stormwater A stormwater management plan accompanies the DA addressing the provisions of this control.	Yes	Yes
C5 Erosion and Sedimentation	Yes	Yes
C6 Building over or adjacent to constructed Council drainage easements		
C7 Excavation and landfill Addressed below table.	Yes	Yes
C8 Demolition and Construction	Yes	Yes
C9 Waste Management	Yes	Yes
Part D - Design		
D1 Landscaped open space and bushland setting Landscape provision is previously addressed in relation to SEPP Housing 2021 within Section 4 of this report. As shown on the architectural plans, the proposed development provides 268 m ² 26.8% of 'Landscaped area' [as calculated under the DCP's definition] within the site. It's respectfully submitted that this control is inappropriate to apply given that the Warringah LEP 2011 does not permit multi dwelling housing in the R2 zone on the land. The control relates to low density housing, not medium density housing, which the proposal is. The Warringah DCP does not contain provisions relating to multi dwelling housing in the zone / on the land. Notwithstanding it is assessed that the proposal meets the objectives of this control as provided below. The proposal provides a characteristic front setback and incorporates appropriate garden areas at the street frontage. The proposal enhances the garden areas within the front setback. The proposal provides a landscape setting to the site's Charles Street frontage which will maintain and enhance the streetscape. As confirmed by the arborist report, the proposal	NA	NA

Clause	Compliance with Requirement	Consistent with aims and objectives
<p>does not result in the inappropriate removal of indigenous vegetation or topographical features.</p> <p>There will be no loss of significant established trees. The proposal provides opportunities for planting within the proposed garden areas in accordance with the landscape plan that accompanies the DA.</p> <p>The proposal involves a net increase in indigenous landscape planting. A condition of consent may reasonably be imposed regarding what proportion of this is indigenous vegetation in order to provide habitat for wildlife.</p> <p>The design provides a development footprint that is compatible with the mixed pattern of development within the street.</p> <p>No excessive building bulk is proposed with the design adopting a modulated building form that is inset at the upper levels from the site boundaries. The proposal's bulk, form and scale are separately addressed herein.</p> <p>There are no inappropriate privacy or solar impacts associated with the proposal. These matters are separately addressed below.</p> <p>The proposal provides adequate open areas for service functions, including clothes drying.</p> <p>Stormwater drainage will be managed and conveyed directly to the Council's street-system. Stormwater reuse will occur through water storage tanks to meet BASIX requirements.</p>		
<p>D2 Private open space</p> <p>The control sets a requirement for '<i>Multi dwelling housing (not located at ground level)</i>' (10m² with minimum dimensions of 2.5 metres), however omits a requirement for <i>multi-dwelling housing</i> at ground level which is the circumstance of the subject DA. The DCP does not set a minimum requirement applicable to the proposed development.</p> <p>Response:</p> <p>The plans include a private open space schedule showing that:</p> <ul style="list-style-type: none"> private open spaces [PoS] range in area from approx. 34m² to 167m². no dwelling provides less than 34m² the PoS areas have a minimum dimension of 	Yes	Yes

Clause	Compliance with Requirement	Consistent with aims and objectives
<p>approx. 3.2m with most areas exceeding this.</p> <ul style="list-style-type: none"> each the PoS area includes sufficient space for recreation, outdoor dining, clothes drying, and planting. a level area of hard paved, principle private open space, is provided adjacent to the main living areas. For dwellings 1-2 and 3 a secondary area of private open space is provided on the upper level which will provide high amenity due to its solar access and outlook to the public recreational zoned land [golf course] opposite to the east of the site. <p>The proposed development provides appropriate private open spaces.</p>		
D3 Noise	Yes	Yes
D4 Electromagnetic radiation	NA	NA
D5 Orientation and energy efficiency	Yes	Yes
<p>D6 Access to Sunlight</p> <p>Shading impact</p> <p>Shadow diagrams accompany the DA showing the proposed shading impact. They demonstrate that compliance with the DCP is achieved. The following key aspects are noted.</p> <p>The DCP requires:</p> <p><i>'1. Development should avoid unreasonable overshadowing any public open space.</i></p> <p><i>2. At least 50% of the required area of private open space of each dwelling and at least 50% of the required area of private open space of adjoining dwellings are to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21'.</i></p> <p>The site and the adjoining properties have an east-west orientation.</p> <p>In accordance with Clause D6 of the DCP, the sunlight available to the private open space of the adjoining dwellings will not be impacted by more than 3 hours, with greater than 30sqm of space within the rear yards [for example at 437 Condamine Street and 41 Pozieres Parade] being in sunlight between 12pm and 3pm on 21 June.</p>	Yes	Yes

Clause	Compliance with Requirement	Consistent with aims and objectives
<p>Sunlight access to the proposed dwellings</p> <p>The site and the adjoining properties have an east-west orientation. View from the sun diagrams accompany the DA and depict the solar access that will be available to each of the proposed dwellings.</p> <p>As repeated at Figure 9, the plans include a solar access schedule showing that all dwellings [except dwelling 5 which receives 2.5 hours], that is 83% of dwellings, receive at least 3 hours of solar access in mid-winter.</p> <p>The provisions of the control are satisfied by the proposal.</p>		
<p>D7 Views –</p> <p>Given the local topography, the siting of the existing buildings and the neighbourhood context, no impacts on views are anticipated from the proposed development from surrounding residential properties or public vantage points.</p> <p>Access has not been gained to nearby properties in assessing this aspect; this may be undertaken when the DA is publicly exhibited to neighbouring properties during the assessment of the DA.</p>	Yes	Yes
<p>D8 Privacy –</p> <p>Privacy has been considered in the proposed design and satisfies the DCP's objectives. The following aspects of the proposal are noted:</p> <ul style="list-style-type: none"> ▪ Appropriate side building setbacks are provided, noting the increased side setbacks proposed to the upper-level. ▪ Side boundary facing window openings are limited and appropriate in terms of their function (the rooms that they serve), their location, and extent. ▪ Mainly bedrooms are contained at the upper-level. Dwellings 1 to 3 contain a secondary living room and balcony positioned to the front, east, with outlook to the street and not to sensitive areas within the adjacent properties. ▪ No upper floor balconies of a size that would allow for the congregation of people are proposed that are not appropriately screened or adjacent to sensitive living areas within the neighbouring properties. 	Yes	Yes

Clause	Compliance with Requirement	Consistent with aims and objectives
It is concluded that the proposal will not inappropriately impact upon the visual privacy of the neighbouring properties.		
<p>D9 Building Bulk</p> <p>The proposal is appropriately designed and articulated noting that:</p> <ul style="list-style-type: none"> ▪ FSR, and building height standards [set under SEPP Housing 2021] are compliant which are key determinants of Building Bulk. ▪ Limited length [approx. 12m] of side walls and separation between dwellings 1 to 3 and 4 to 6. ▪ Recessed upper levels [dwellings 1 to 3] and roof elements [dwellings 4 to 6]. ▪ The side setbacks are progressively increased as the wall height increases. ▪ Large areas of continuous wall planes are avoided by varying building setbacks within each elevation and use of different materials to provide visual relief. ▪ The proposed building height and scale to relates to topography and site conditions, will be compatible with the height and bulk of adjoining dwellings, and result in an enhanced streetscape presentation. ▪ The design is orientated to address the street. ▪ The dwellings are contained within two blocks of three that are appropriately separated. ▪ The design includes concealed car parking within a basement level and a recessive driveway ▪ The design includes articulated walls to reduce building mass. When viewed from the street end adjoining land, the design is highly articulated incorporating is of different setbacks and materials. ▪ Landscape areas and plantings are provided to reduce the visual bulk and enhance the proposed dwelling house. 	Yes	Yes
<p>D10 Building Colours and Materials</p> <p>The proposal will employ appropriate materials and finishes to be compatible with the local, mixed</p>	Yes	Yes

Clause	Compliance with Requirement	Consistent with aims and objectives
development character.		
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
<p>D13 Front fences and front walls</p> <p>Solid front fencing is proposed, as shown of the architectural plans, incorporating stepping, planters, and landscaping.</p> <p>Objectives</p> <ul style="list-style-type: none"> • To ensure that fencing, terracing and retaining walls are compatible with the existing streetscape character while creating visual interest in the public domain. • To encourage innovative design solutions to improve the urban environment. • To avoid a 'walled in' streetscape. <p>Requirements</p> <ol style="list-style-type: none"> 1. Fences, including side fences, located within the street setback area are to be compatible with the existing streetscape character. 2. Where a solid fence is required it is to be articulated to provide visual interest and set back to allow for landscaping to soften and screen the appearance of the fence. 3. Fences located within the front building setback area are to complement the existing streetscape character. 4. Fences are to be constructed to allow casual surveillance, except where there is excessive noise. 5. Gates are not to encroach over the property boundary when opening or closing. 6. Fences should complement the architectural period of the building. <p>Response</p> <p>The site is located on a busy classified road. This necessitates a solid, front fence for safety and privacy.</p>	NA	NA

Clause	Compliance with Requirement	Consistent with aims and objectives
<p>Safety and Privacy:</p> <p>The proposed front fence will enhance safety and privacy for residents, shielding them from the busy road and potential intrusions.</p> <p>Landscape and streetscape character:</p> <p>The land adjoins a classified road which conveys significant transport. Solid front fences along the busy road are a suitable and notable characteristic of the location [including the subject site] as demonstrated by figures 4 and 5.</p> <p>As shown in figure 10 below the proposed street inface a includes a stepped, solid front that incorporates appropriate materials and planting.</p> <p>Setbacks and Landscaping:</p> <p>The proposal includes generous front setbacks that exceed the minimum requirements, providing appropriate opportunity for the integration of landscaping, further enhancing the visual appeal and environmental quality of the site.</p> <p>Design and Aesthetics:</p> <p>The proposed front fence design is sympathetic to the surrounding environment and visually interesting, incorporating a variety of compatible materials and planting to enhance the streetscape.</p> <p>Objectives</p> <p>The proposed fencing:</p> <ul style="list-style-type: none"> ▪ avoids a 'walled in' streetscape through varied fence height ranging from 1.2 to 1.8m. limiting the 1.8m section to the spaces in front of the private open spaces. ▪ facilitates the use of the front setback and the private open spaces of dwellings 1 to 3. ▪ will be compatible with the existing streetscape character which includes solid fencing. ▪ is articulated by the varied fence height and angular alignment to provide visual interest. ▪ will complement the architectural design and materials of the building by the use of compatible materials. 		
D14 Site facilities	Yes	Yes
D15 Side and rear fences	NA	NA
D16 Swimming Pools and Spa Pools	NA	NA
D17 Tennis courts	NA	NA

Clause	Compliance with Requirement	Consistent with aims and objectives
D18 Accessibility	Yes	Yes
D19 Site consolidation in the R3 and IN1 zone	NA	NA
D20 Safety and security	Yes	Yes
D21 Provision and location of utility services	Yes	Yes
D22 Conservation of Energy and Water	Yes	Yes
Part E - The Natural Environment		
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	Yes	Yes
E3 Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conservation Habitat	NA	NA
E4 Wildlife Corridors	NA	NA
E5 Native Vegetation	Yes	Yes
E6 Retaining unique environmental features	Yes	Yes
E7 Development on land adjoining public open space	NA	NA
E8 Waterways and Riparian Lands	NA	NA
E9 Coastline Hazard	NA	NA
E10 Landslip Risk	NA	NA
E11 Flood Prone Land	NA	NA

SOLAR ACCESS (LIVING)													
UNIT NO.	0900	0930	1000	1030	1100	1130	1200	1230	1300	1330	1400	1430	1500
TH01	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
TH02	No	No	Yes	Yes	Yes	No	No	No	Yes	Yes	Yes	Yes	Yes
TH03	No	No	Yes	Yes	Yes	No	No	No	Yes	Yes	Yes	Yes	Yes
TH04	Yes	Yes	Yes	Yes	Yes	No	No	No	No	No	No	No	No
TH05	Yes	Yes	Yes	Yes	Yes	No	No	No	No	No	No	No	No
TH06	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Figure 10 – solar access schedule showing that all dwellings [except dwelling 5 which receives 2.5 hours] receive at least 10 hours of solar access in mid-winter



Figure 11 – the proposed street inface a includes a stepped, solid front that incorporates appropriate material and planting

5.3.1 Conclusion - variations to numerical aspects of the DCP

Based on the above, it is concluded that the proposed numerical variations are contextually appropriate noting the merits of the design and satisfy the objectives of the planning controls.

Under clause (3A)(b) of Section 4.15 of the Act, it is appropriate for the consent authority must be flexible in applying the numerical controls where the objectives of those controls are satisfied.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of DCP, and the proposal is worthy of support.

6 Low Rise Housing Diversity Design Guide

In the absence of multi dwelling housing specific, detailed, development controls [DCP provisions], the following gives consideration to the key provisions of the Low Rise Housing Diversity Design Guide for development applications [the Guide]¹.

The following aspects of the guideline have been discounted: Building height, storeys, site size, FSR, deep soil, landscaped area, car parking as these are all requirements of the planning instrument and have previously been addressed in Section 4 of this report.

Response

The proposed dwellings orientate to the front and rear as recommended by the multi dwelling design guide for DAs.

Habitable rooms face the street.

Safe and BCA compliant pedestrian pathways are proposed.

The dwellings are stepped consistently with the slope from rear to front.

The dwellings are contained within two blocks of three that are appropriately separated. Appropriate separation is proposed between the front and rear row of dwellings [approx. 7.4m] with the space between providing effective pedestrian access and opportunities for private open space with good solar and privacy amenity.

The ground floor is not more than 1.3 metres above ground level (existing). The basement does not project greater than 1 metre above ground level (existing). In this instance a higher finished floor level is required to meet the applicable Flood Planning Level.

The principal living areas will receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21 (to at least 50% of the glazed area of those windows). Solar access is previously addressed in response to DCP control D6.

The plans include a schedule showing that all dwellings provide appropriate storage provision within each garage and dwelling.

Tree planting is previously addressed in section 4.

Dwellings have a minimum internal width of more than approx. 4.8 metres. Dwellings 1 to 3 have minimum internal widths of 4.8. Dwellings 4 to 6 have minimum internal widths of 6.2.

End-of-row dwellings provide windows on side walls to articulate the facade, and meet visual and acoustic privacy requirements.

The minimum floor to ceiling height in all living areas is approx. 2.75 metres.

Each dwelling orientates east to west with living rooms and private open spaces on both eastern and western sides of each dwelling providing good solar access to the private open space is an living room windows of each dwelling

All dwellings contain 3-bedroom and range from approx. 120 to 130 m².

Principal private open space

¹ Department of Planning Industry and Environment, July 2020. Section 2.4 Multi Dwelling Housing

A schedule of private open spaces is provided within the architectural plan set and this is previously addressed in response to DCP control D2.

Vehicle access is integrated with the building design.

The design includes concealed car parking within a basement level and a recessive driveway

The width of the basement entry does not to exceed 50% of the lot frontage or 7 metres, whichever is the lesser.

The majority of the basement is within the building footprint and not extend into setback or deep soil areas.

Covered space is provided for the secure storage of at least 1 bicycle per dwelling within the each basement garage.

7 Section 4.15 the Environmental Planning and Assessment Act 1979 – Summary

The proposal has been assessed having regard to the matters for consideration pursuant to S.4.15 of the Act and to that extent Council can be satisfied of the following:

- There will be no unreasonable adverse built environment impacts arising from the proposed physical works on the site.
- The site is appropriate for accommodating the proposed development. The proposal has sufficiently addressed environmental considerations. There will be no unreasonable adverse environmental Impacts arising from the proposal.
- The proposal will result in positive social and economic impacts, noting:
 - Employment during the construction phase of the works;
 - Economic benefits, arising from the investment in improvements to the land;
 - Social (and environmental) benefits arising from the renewal of existing housing stock, BASIX compliance, and additional on-site car parking.
- The proposal is permissible and consistent with the objectives of the zone, pursuant to the LEP. The proposal satisfies the provisions of the relevant provisions of the council's DCP.
- It is compatible with the current and likely future character of development within the local context.
- It will not result in any significant unacceptable offsite impacts that limit the use or enjoyment of nearby or adjoining land.
- The proposal will have an acceptable impact when considering key amenity issues such as visual impact, views, overshadowing, noise and privacy.
- Given the site's location and established residential function, the site is assessed as being entirely suitable for the proposed development.
- The public interest is best served through the approval of the application.

8 Conclusion

The application seeks development consent for demolition of the existing development and construction of a new dwelling house and secondary dwelling at 439 Condamine Street, Allambie Heights.

Walsh Architects have responded to the client's brief with an exceptional design that is responsive to the mixed development character, property context, and the prevailing planning objectives for the site.

The proposal has been assessed under the relevant provisions of Section 4.15 of the Environmental Planning and Assessment Act and should be approved because:

- The proposed development is permissible with consent.
- The application has considered and satisfies the various applicable SEPP, LEP and DCP built form controls as they are reasonably applied to the site.
- The proposed development will not give rise to any unacceptable residential amenity or streetscape consequences.
- Subject to the recommendations of various expert reports, the proposed development can mitigate the environmental conditions identified and satisfy the relevant statutory controls.
- The site is suitable for the proposed development, having regard to its size and capacity to accommodate the proposed design.
- The proposal will result in various positive social and economic impacts in the locality including the provision of increased housing in a highly accessible location.
- The development is in the public interest.

In view of the above, we conclude that the proposed development will provide a significantly positive impact and should be approved.

BBF Town Planners

Michael Haynes - Director