

# **STATEMENT OF ENVIRONMENTAL EFFECTS**

**Demolition and  
development of a dual  
occupancy**

**2 Bardoo Avenue, North  
Balgowlah**

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**May 2025**

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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 construction of a new dual occupancy [detached] and Strata Title subdivision at 2 Bardoo Avenue, North Balgowlah. The proposal is depicted in the accompanying architectural plans by Du Plessis Architects. A summary of the key aspects of the proposal are noted as follows:

- Demolition of existing structures.

### **Dwelling 1 – Lot 1**

#### **Ground floor level -**

- entry
- open plan dining, living
- kitchen and family room media
- study
- terrace to west
- laundry
- bedroom
- bathroom

#### **First floor level –**

- 3 bedrooms
- walk-in-robe
- 2 bathrooms

### **Dwelling 2 – Lot 2**

#### **Ground floor level -**

- entry
- open plan dining, living
- kitchen and family room media
- study
- terrace to east side
- laundry
- bedroom
- bathroom

#### **First floor level –**

- 3 bedrooms

- Walk-in-robe
- 2 bathrooms

**External**

- Excavation as shown
- Fill and retaining walls as shown
- Landscaped works as shown.
- Landscape planting as shown
- Swimming pool to dwelling 2
- Front fence - 1.2m and 1.8 high [in nominated sections in front of the House 1 & 2 private gardens] slatted front fence
- Dividing fence / wall between dwellings 1 and 2 to be 1.8m.

2m separation between the dwellings is proposed.

The proposal includes the Strata Title subdivision of the proposed dual occupancy (attached). Refer to draft Strata Plan within the architectural plan set.

The 2 proposed dwellings are distinctly different from each other as they present to the street corner and deliberately designed so as not to be mirrored designs in terms of their form, materials, colour, etc.

## **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.



Figure A – proposed development configuration

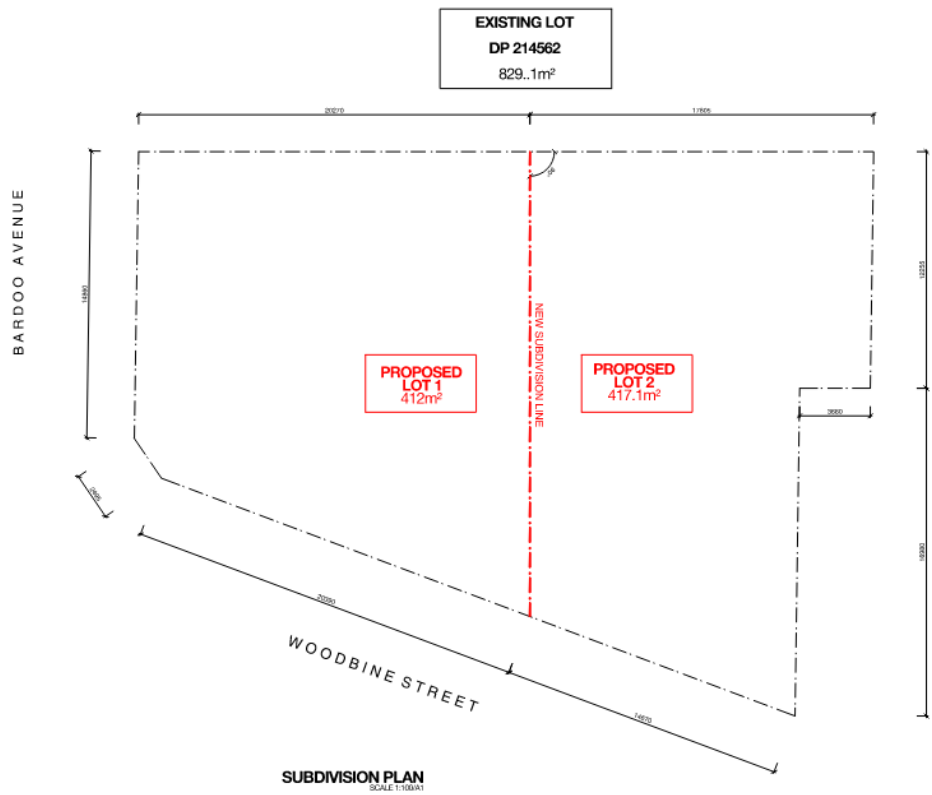


Figure B – subdivision plan

## 2 Site Analysis

### 2.1 Site and location description

The site is located at 2 Bardoo Avenue, North Balgowlah [on the corner of Bardoo Avenue and Woodbine Street]. It is legally described as Lot 1 in Deposited Plan 214562 and has an area of 829.1m<sup>2</sup>.

The site is a corner allotment and is irregular in shape with a long angular boundary to Woodbine Street of 35.06m.

The site has a variable width. The western boundary is 14.86m whereas the eastern boundary is stepped and approximately 12.26m + 16.98m [totalling 29.24m].

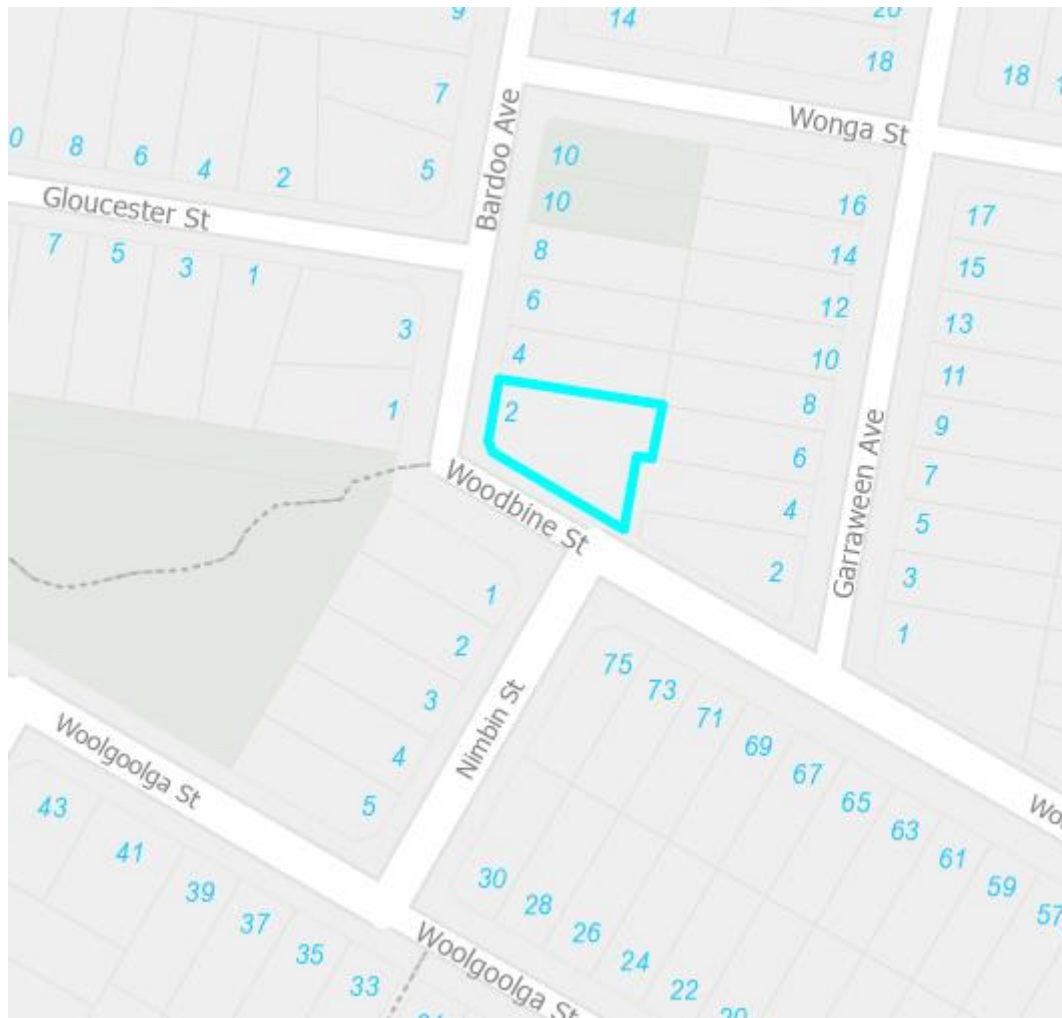
The site is occupied by a modest sized, single storey, brick dwelling house and tiled roof with various concrete paths and a tiled patio. There is also a metal shed along the eastern boundary. The current dwelling presents to Woodbine Street. There is driveway and car parking space off Woodbine Street.

The local topography slopes moderately from north to south and from east to west. The site experiences a 600mm [approx.] crossfall from north to south. The site also experiences a 1m fall [approx.] from east to west.

There are no prominent topographical features located on the property. There is a large tree within the site's Bardoo Avenue front setback

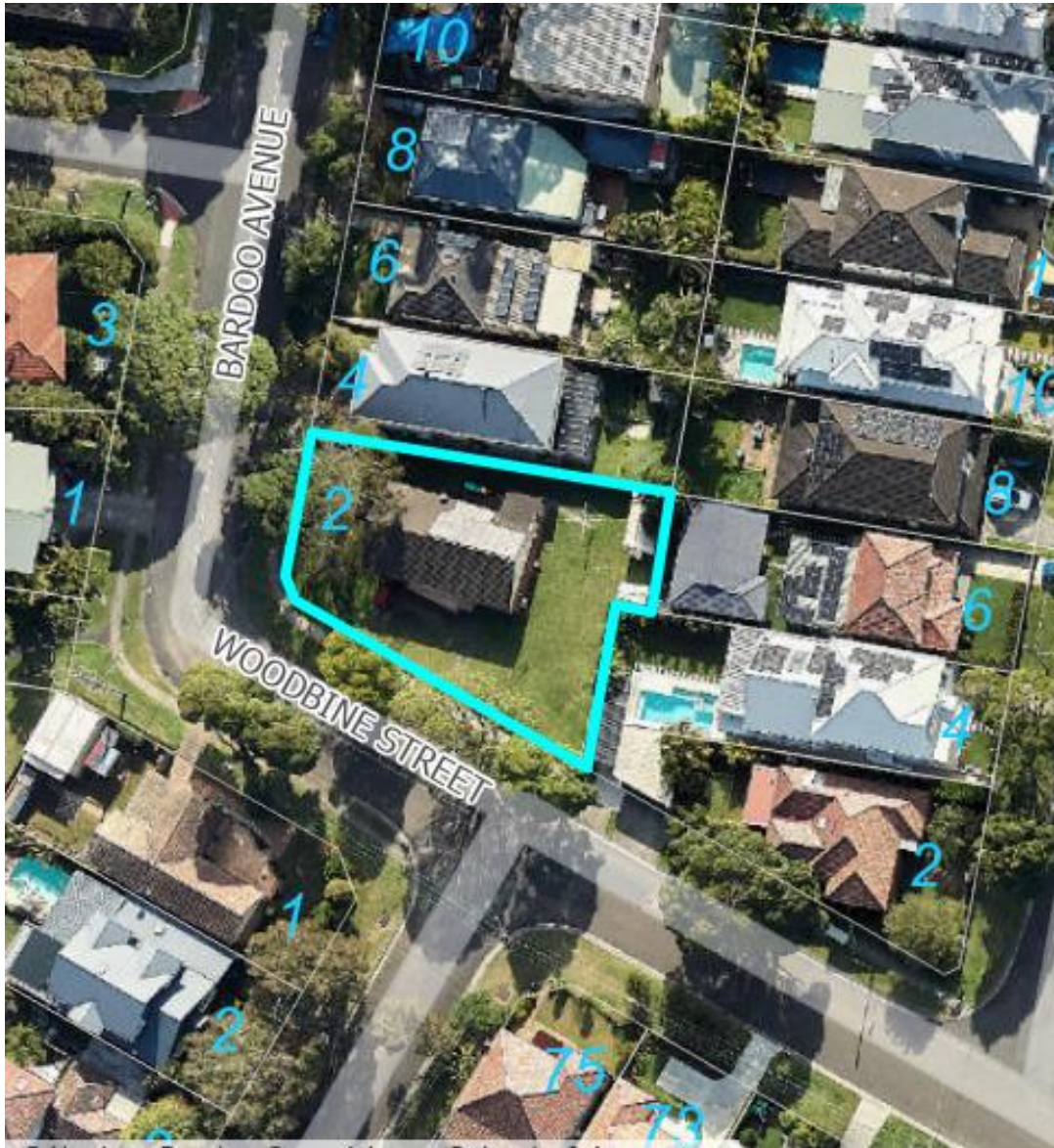
The land is zoned R2 Low Density Residential. The land is not identified in the LEP as being affected by heritage conservation, flooding, bushfire, biodiversity, riparian, coastal risk or landslip,

The figures on the following pages depict the character of the property and its existing development.



**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 –existing dwelling house frontage to Woodbine Street**



**Figure 4 – existing dwelling house character and interface with its eastern boundary**





**Figure 5 – existing dwelling house frontage to Bardoo Avenue**

## 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.

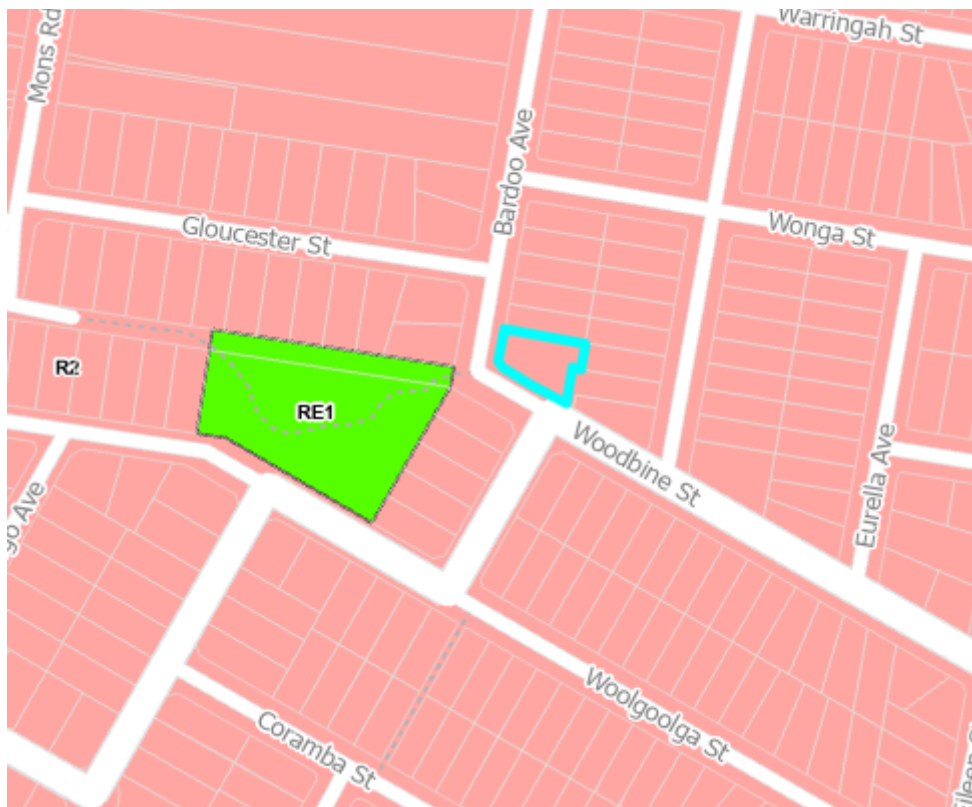
The application has been assessed against the relevant heads of consideration under Section 4.15 of the Act; a summary of these matters are addressed within Section 7 of this report, and the town planning justifications are discussed below.

## 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 6 – zoning map excerpt (Council's website)**

The proposal constitutes demolition and construction of a new dual occupancy [detached] and Strata Title subdivision. 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.

#### 4.1.2 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
LEP Clause 2.6 Subdivision—consent requirements  (1) Land to which this Plan applies may be subdivided, but only with development consent.	Strata title subdivision is permissible with consent.	Yes
<b>Part 4 of LEP – Principal Development Standards</b>		
LEP Clause 4.1 Minimum subdivision lot size 600m <sup>2</sup>	Clause 4.1(4) relevantly states: (4) <i>This clause does not apply in relation to the subdivision of any land— (a) by the registration of a strata plan or strata plan of subdivision under the <u>Strata Schemes Development Act 2015</u>,</i>	NA
LEP Clause 4.3 – Height of Buildings 8.5m	The proposed development complies with the 8.5m building height standard as documented on the architectural plans.	Yes
LEP Clause 4.4 – Floor space ratio	NA	NA
LEP Clause 4.6 – Exceptions to development standards	NA	NA
<b>Part 5 of LEP – Miscellaneous Provisions</b>		
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	Council’s maps do not identify the site as being flood affected.	Yes
<b>Part 6 of LEP – Additional Local Provisions</b>		
LEP Clause 6.1 Acid sulfate soils	NA	NA
LEP Clause 6.2 Earthworks	Earthworks for the development are proposed below the existing site levels. The application is accompanied by architectural plans, landscape concept plan and stormwater management plans that demonstrate that the proposal is appropriate for the site.	Yes

SECTION 4.15 (1)(I) THE PROVISIONS OF ANY ENVIRONMENTAL PLANNING INSTRUMENT

LEP Provision	Response	Complies
	<p>Drainage patterns and soil stability are not adversely impacted by the proposal which are supported by stormwater management plans.</p> <p>The architectural plans and landscape concept plan make appropriate provision for the design and treatment of the site's external areas. Appropriate retaining walls and vegetated areas are proposed. No inappropriate amenity impacts on neighbouring properties relating to earthworks upon the site are anticipated from the proposed development.</p> <p>Heritage is not relevant to the proposed development. 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>	
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 to accompany the DA and the provisions of the clause are satisfied.	Yes



## 4.2 State Environmental Planning Policy

### 4.2.1 State Environmental Planning Policy (Housing) 2021

State Environmental Planning Policy (Housing) 2021, Chapter 6 'Low and mid rise housing', Part 2 'Part 2 Dual occupancies and semi-detached dwellings' is applicable to the land.

Section 166 permits with development consent dual occupancies within the R2 Low Density Residential zone as stated below.

***'166 Development permitted with development consent***

*Development for the purposes of dual occupancies or semi-detached dwellings is permitted with development consent on land to which this chapter applies in Zone R2 Low Density Residential'.*

#### **Response**

The proposed development is appropriately characterised as a dual occupancy [detached] which is defined in the LEP dictionary as:

***dual occupancy*** means a dual occupancy (attached) or a dual occupancy (detached).

*Note.*

*Dual occupancies are a type of residential accommodation—see the definition of that term in this Dictionary.*

***dual occupancy (detached)*** means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.

*Note.*

*Dual occupancies (detached) are a type of dual occupancy.*

The site is located within the R2 Low Density Residential under the LEP. The site is not land listed as excluded under s164 of the Policy. Therefore, the Housing SEPP overrides the LEP and permits, with development consent, dual occupancy on the land.

### 4.2.1 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.

### 4.2.2 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 DA is accompanied by an arborist report.

The DA involves development within proximity to one designated tree. The accompanying arborist report notes:

*'Only 1 tree is located within the site. The owner desires to retain this tree so tree sensitive design has been undertaken to reduce the impact to the tree where possible. There are 4 street trees located outside of the site, one being on Bardoo Avenue and 3 being located along Woodbine Avenue. There is an additional small tree located within the eastern neighbours adjoining site'.*

The arborist's assessment report recommends the following:

### **RECOMMENDATIONS AND MITIGATION STRATEGIES**

***'8.1 This report assesses the impact of a proposed development at the site on 6 trees in accordance with AS4970 Protection of trees on development sites (2009).***

***8.2 No trees will be required to be removed to facilitate the proposed works.***

***8.3 It is recommended that trees T1, T2, T3, T4, T5 and T6 (total of 6 trees) all be retained and protected.***

***8.4 Trees T2, T4 and T5 will require root investigations due to major calculated encroachments. If significant roots are encountered, tree sensitive design will likely be required.***

***8.5 A site-specific tree protection plan should be written following the root investigation works.***

***8.6 Tree protection measures are recommended to be installed prior to the commencement of any site activity, inclusive of demolition and installed in accordance with the recommendations made within this report and be compliant to AS4970 Protection of Trees on Development Sites (2009).***

***8.7 All works within the TPZ areas are to be carried out in consultation with the project Arborist who is to monitor the condition of the trees and the site activities throughout the development process.***

***8.8 All construction activity is to comply with Australian Standard AS4970 Protection of Trees on Development Sites (2009), sections 7, 10 and 11 of this report.***

***8.9 No services plan has been assessed as part of this report. All underground services located inside the TPZ of any tree to be retained must be installed via tree sensitive techniques. This should include either directional drilling methods or manual excavations to minimise the impact to trees identified for retention. Section 4.5.5 of AS4970-2009 says that 'The directional drilling bore should be at least 600 mm deep. The project Arborist should assess the likely impacts of boring and bore pits on retained trees. For manual excavation of trenches the project Arborist should advise on roots to be retained and should monitor the works'.<sup>5</sup>***

***8.10 This report does not provide approval for tree removal or pruning works. All recommendations in this report are subject to approval by the relevant***

*authorities and/or tree owners. This report should be submitted as supporting evidence with any tree removal/pruning or development application’.*

The above recommendations may reasonably form conditions of development consent. Based on the above, the provisions of the policy are satisfied by the proposal.

#### **4.2.3 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.

## 5 Development Control Plan

### 5.1 Overview

In response to Section 4.15 (1)(iii) of the Act, the Warringah Development Control Plan (DCP) is applicable to the property. Relevant provisions of the Warringah DCP are addressed below.

### 5.2 Built form controls

A table assessing compliance with the relevant built form provisions of the DCP is detailed below.

Clause	Requirement	Proposed	Complies?
B1 Wall Height	7.2m	5.5 to 6m	Yes
B3 Side Boundary Envelope	4m at 45 degrees required.  Corner site – the north and east boundaries being the side boundaries.  North side: 6m  East side: 10.5m	East side: complies  North side: dwelling 1 – up to 250mm / 4.2% exception*, as shown in figure 7. dwelling 2 – up to 350mm / 5.8% exception*, as shown in figure 7.	Yes  No  No
Control objectives <ul style="list-style-type: none"> <li>▪ To ensure that development does not become visually dominant by virtue of its height and bulk.</li> <li>▪ To ensure adequate light, solar access and privacy by providing spatial separation between buildings.</li> <li>▪ To ensure that development responds to the topography of the site.</li> </ul>		The proposed side boundary envelope exceedance is modest, as shown in figure 7, ranging up to 250mm for dwelling 2 and 350mm for dwelling 1.  The numerical variation is acknowledged, and justification is provided in response to the planning control objectives, the circumstances of the site, and the merits of the proposal, as noted below.  <b>height and bulk</b>  The proposed building does not become visually dominant by virtue of the minor side boundary envelope exception which is limited to narrow triangular sections of the dwellings adjacent to the northern boundary, as shown in Figure 7.  The design incorporates measures to achieve appropriate height and bulk noting: <ul style="list-style-type: none"> <li>- the minor extent [4.2 to 5.8%] of the exception.</li> <li>- the exception is located on the northern</li> </ul>	

Clause	Requirement	Proposed	Complies?
		<p>side of proposed dwelling 2, which is to the south of the adjacent property at 4 Bardoo Ave. Therefore, the exception will not have any adverse impact on the solar access to any adjacent sensitive areas (e.g. living room windows or private open spaces) within the adjoining property.</p> <ul style="list-style-type: none"> <li>- the design is modulated, employs use of different materials, is within a landscaped setting, is compatible with the height and bulk of adjoining dwellings, will result in a compatible streetscape presentation and characteristic presentation when viewed from adjoining land. The proposed height and bulk of the design is compatible with mix of building forms within the visual catchment.</li> <li>- the incorporation of a contemporary, low profile roof.</li> </ul> <p><b>light, solar access and privacy</b></p> <p>Adequate light, solar access and privacy is achieved by the design despite the minor side boundary envelope exception.</p> <p>The proposed development complies with the DCP's privacy, amenity and solar access requirements, as separately addressed below.</p> <p><b>Topography</b></p> <p>The local topography slopes moderately from north to south and from east to west. The site experiences a 600mm [approx.] crossfall from north to south. The site also experiences a 1m fall [approx.] from east to west. The exception is partly attributed to the topography which makes strict numerical compliance difficult to achieve.</p> <p>It is concluded that the objectives of the control are satisfied, and the circumstances are appropriate for Council to be flexible in applying the numerical control.</p>	
B5 Side Setback	<p>900mm</p> <p>Corner site – the side boundaries being the northern and eastern boundaries.</p> <p>There is no rear boundary [see below].</p>	<p>North side –</p> <p>Ground floor level – 1.25m</p> <p>First level – 1.25m to 2m</p>	<p>Yes</p> <p>Yes</p>

Clause	Requirement	Proposed	Complies?
B7 Front Setbacks	Primary 6.5m	Variable – minimum 6.77m	Yes
	Secondary front setbacks 3.5m	<p>Dwelling 1 Dwelling 2</p> <p>Garage [Dwelling 2] The garage encroachment occupies 23m<sup>2</sup> or 23% [approx.] of the secondary front setback area. Non-compliant for 6.6m length.</p> <p>Objectives satisfied as addressed below.</p>	<p>Yes Yes</p> <p>No</p>
<p><b>Objectives</b></p> <p><i>To create a sense of openness.</i></p> <p><i>To maintain the visual continuity and pattern of buildings and landscape elements.</i></p> <p><i>To protect and enhance the visual quality of streetscapes and public spaces.</i></p> <p><i>To achieve reasonable view sharing.</i></p> <p><b>Requirements</b></p> <p><i>Development is to maintain a minimum setback to road frontages.</i></p> <p><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></p> <p><i>Where primary and secondary setbacks are specified, buildings and structures (such as carparks) are not to occupy more than 50% of the area between the primary and secondary setbacks. The area between the primary setback and the road boundary is only to be used for landscaping and driveways.</i></p> <p><b>Exceptions</b></p> <p><i>Land Zoned R2 or R3</i></p> <p><i>On corner allotments or sites with a double street frontage, where the minimum front building setback is 6.5 metres to both frontages, the front building setback may be reduced to a minimum of 3.5 metres for the secondary frontage, but secondary street variations must consider the character of the secondary street and the predominant</i></p>		<p>As shown in figure 8 below, the secondary front setback area is 103.8 m<sup>2</sup>.</p> <p>4 key planning considerations are noted regarding the siting of the garage for dwelling 2. These include:</p> <ul style="list-style-type: none"> <li>the location of the sewer main which cannot be constructed over or moved at the rear of the proposed garage [figure 10].</li> <li>the objective to optimise landscaped area on the property, which would be reduced if the garage was further setback to meet strict numerical compliance.</li> <li>the existing character of Woodbine St adjacent to the property [figures 9, 11, 12, &amp; 13], addressed below.</li> <li>the desire to achieve a high amenity private open space area, to the east of dwelling 2.</li> </ul> <p>In accordance with the exception provision of the control the proposed development has considered <i>the character of the secondary street and the predominant setbacks existing to that street</i>. This character is depicted within the figures below and is notably characterised by car parking structures immediately adjacent to the secondary site frontage and adjacent to the proposed structure. The proposal is consistent with this character</p> <p>The proposed secondary front setback will create a sense of openness through the maintaining of building setbacks two dwelling one and two that exceed the minimum 3.5 metre secondary front setback. The dwelling setbacks along this frontage range from</p>	

Clause	Requirement	Proposed	Complies?
	<i>setbacks existing to that street'.</i>	<p>5.67m to 7.46m for dwelling 1 and 10.4m to 16m for dwelling 2.</p> <p>The proposed secondary front setback will maintain the visual continuity and pattern of buildings and landscape elements noting:</p> <p>The dwelling setbacks along the secondary frontage range from 5.67m to 7.46m for dwelling 1 and 10.4m to 16m for dwelling 2. significantly exceeding the minimum 3.5 metre secondary front setback and providing increased opportunities for landscaped areas within the setback.</p> <p>There are no significant trees within the property that will be adversely impacted.</p> <p>The proposed development provides greater setbacks to Woodbine Ave than the adjoining development to the east of the site which includes both 2 and 4 Garraween Street.</p> <p>The proposed secondary front setback will protect and enhance the visual quality of the streetscapes and public spaces by providing a development of high design merit, which is highly articulated, with appropriate building setbacks, incorporates quality building materials, and will provide a positive redevelopment outcome for the property.</p> <p>The proposed secondary front setback will not adversely impact on any significant views and achieve reasonable view sharing.</p> <p>Given the circumstances there would be no planning benefit gained by providing a numerically compliant 3.5 metre front setback to the dwelling 2 garage.</p>	
B9 Rear Setback	Not applicable to corner site	NA	NA



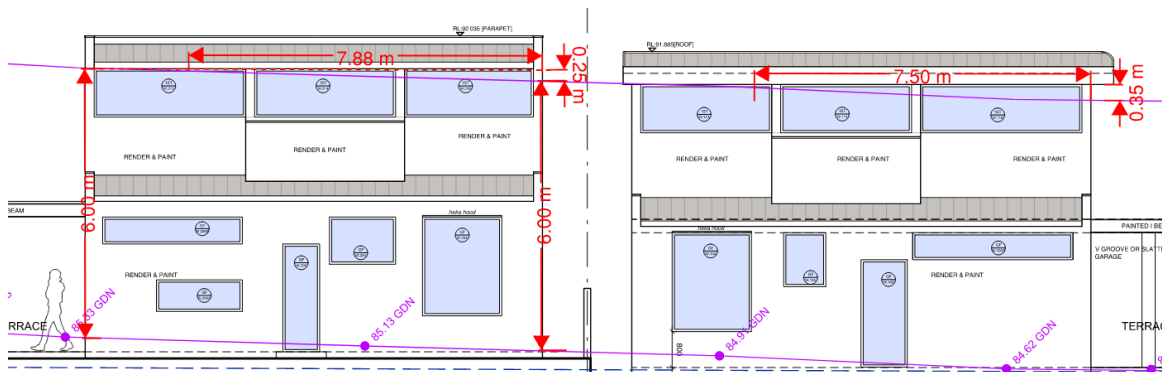


Figure 7 – Locations and extent of Side Boundary Envelope 350mm exception to north side

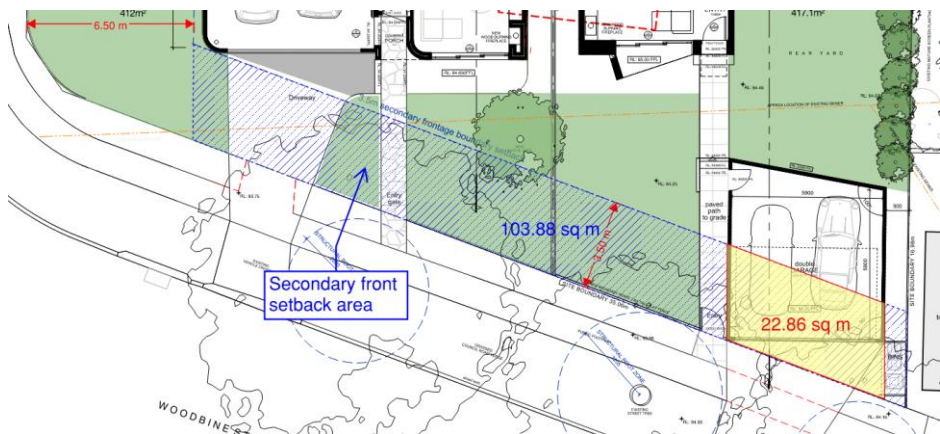


Figure 8 – the secondary front setback area and the 23m² [approx.] encroachment proposed

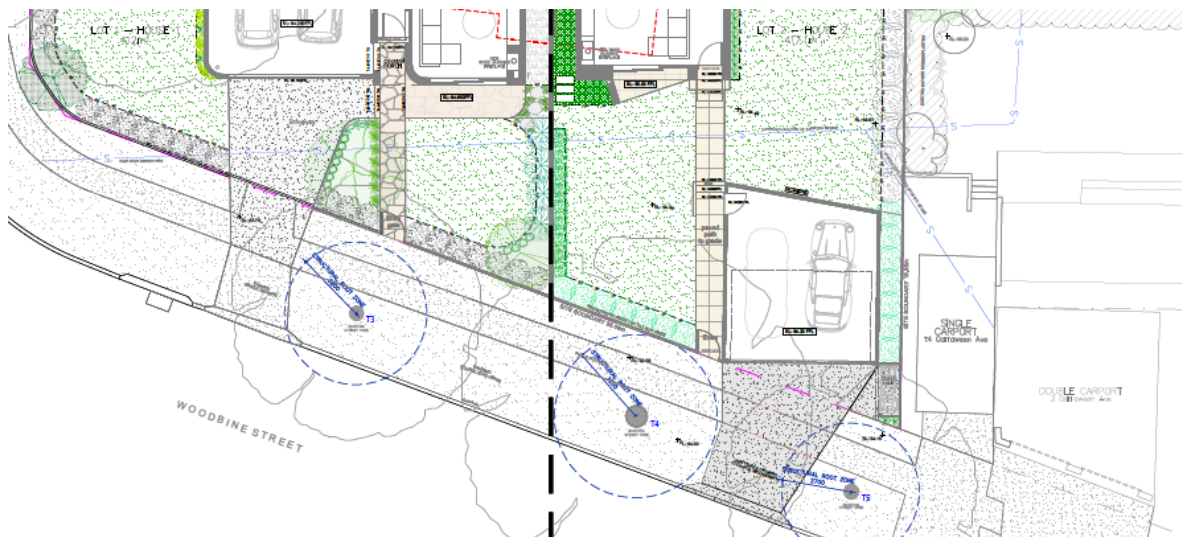
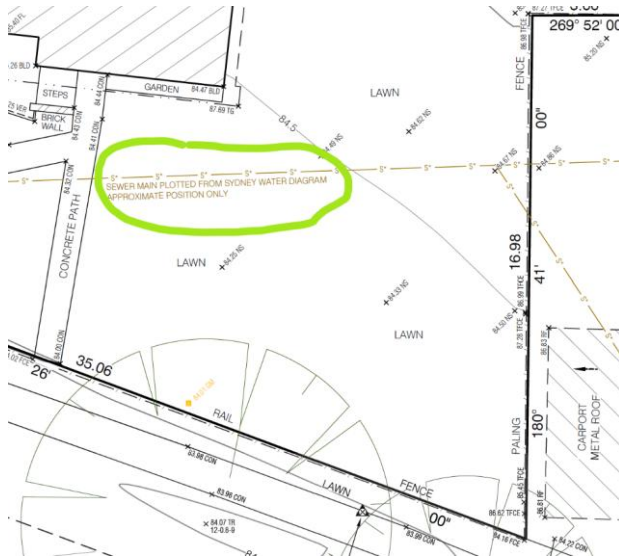


Figure 9 – proposed landscaped character of the secondary front setback area



**Figure 10 – the location of the sewer main within the eastern section of the site constrains the location of the garage for dwelling 2**



**Figure 11 – Woodbine Street setback character adjacent to 2 Garraween Avenue, the adjacent property to the east**





**Figure 12 – existing front setback garage character to Woodbine Street**



**Figure 13 – existing front setback character looking east along Woodbine Street**

**5.2.1 Broader DCP compliance assessment**

Clause	Compliance with Requirement	Consistent with aims and objectives
<b>Part C - Siting Factors</b>		
<b>C1 Subdivision</b> The proposed lots are of adequate size to accommodate the proposed dwellings and satisfy the built form controls applicable to the site. Each proposed allotment is connected to the adjoining roadway. Provision for drainage is made for each apartment to be connected to council still more a system by gravity. Conditions may be imposed regarding positive covenants with regards to maintenance of storm-water facilities. The land is not environmentally constrained.	Yes	Yes
<b>C2 Traffic, Access and Safety</b>	Yes	Yes
<b>C3 Parking Facilities</b> Proposed: 4 separately accessible car spaces.	Yes	Yes
<b>C4 Stormwater</b> A stormwater management plan accompanies the DA addressing the provisions of this control.	Yes	Yes
<b>C5 Erosion and Sedimentation</b>	Yes	Yes
<b>C6 Building over or adjacent to constructed Council drainage easements</b>		
<b>C7 Excavation and landfill</b>	Yes	Yes
<b>C8 Demolition and Construction</b>	Yes	Yes
<b>C9 Waste Management</b>	Yes	Yes
<b>Part D - Design</b>		
<b>D1 Landscaped open space and bushland setting</b> Site area: 829.1m <sup>2</sup> Required: 40% / 331.6 m <sup>2</sup> Proposed, as shown on the architectural plans: <ul style="list-style-type: none"> <li>▪ Total: 331.9m<sup>2</sup> / 40.04%</li> <li>▪ Lot 1 – area: 412m<sup>2</sup>, 164.99m<sup>2</sup> / 40%</li> <li>▪ Lot 2 - area: 417.1m<sup>2</sup>, 166.9m<sup>2</sup> / 40%.</li> </ul>	Yes	Yes
<b>D2 Private open space</b> Required: 3 bedroom dwellings / dual occupancies - a total of 60m <sup>2</sup> with minimum dimensions of 5 metres. Response: Dwelling 1 includes a western terrace of approx.	Yes	Yes

Clause	Compliance with Requirement	Consistent with aims and objectives
12m <sup>2</sup> and a southern landscaped area of approx. 20m <sup>2</sup> , both are adjacent to the living areas. Dwelling 2 includes an east terrace of approx. 17m <sup>2</sup> and a southern landscaped area of approx. 74m <sup>2</sup> , both are adjacent to the living areas. The proposal meets and exceeds the minimum dimensions and area.		
D3 Noise	Yes	Yes
D4 Electromagnetic radiation	NA	NA
D5 Orientation and energy efficiency	Yes	Yes
<p>D6 Access to Sunlight</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>Shadow diagrams showing the proposed shadows accompany and support the proposal. They demonstrate that compliance with the DCP is achieved. The following key aspects are noted.</p> <ul style="list-style-type: none"> <li>▪ The site has an east-west orientation with Woodbine Street adjacent to the south.</li> <li>▪ Due to the lot orientation the additional overshadowing is favourable, not cast onto adjoining buildings but the site itself and adjoining streets.</li> <li>▪ None of the neighbouring houses' habitable rooms are impacted by the proposal.</li> </ul> <p>In accordance with Clause D6 of the DCP, the sunlight available to the private open space of the adjoining dwelling to the east at 2 Garraween Avenue will not be impacted by more than 3 hours, with greater than 30sqm of space within the rear yard being in sunlight between 9am and 12pm on 21 June.</p> <p>Furthermore, the private open spaces for the proposed dwellings will achieve at least three hours of sunlight between 9am and 3pm on 21 June.</p> <p>Dwelling 1 will receive afternoon sunlight to its PoS in midwinter.</p> <p>Dwelling 2 will receive morning sunlight to its PoS in midwinter.</p>	Yes	Yes

Clause	Compliance with Requirement	Consistent with aims and objectives
The provisions of the control are satisfied by the proposal.		
<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"> <li>▪ Appropriate side building setbacks are provided, noting the increased side setbacks proposed to the upper-level.</li> <li>▪ Side boundary facing window openings are limited and appropriate in terms of their function (the rooms that they serve), their location, sill heights, and extent.</li> <li>▪ No upper floor balconies are proposed.</li> <li>▪ In terms of the adjoining No.4 Garraween Avenue, there is 3m separation between the dwellings on ground floor and 4m on Level 1 plus windows are screened on the ground floor by the boundary fence and on Level 1 raised sill height windows are proposed to avoid direct overlooking.</li> <li>▪ Private open spaces are provided at ground level where they are appropriately screened by dividing fencing, the relatively flat topography and landscaping near the property boundaries [both existing and proposed] together achieving appropriate privacy between the proposal and the neighbouring properties.</li> </ul> <p>It is concluded that the proposal will not inappropriately impact upon the visual privacy of the neighbouring properties.</p>	Yes	Yes
<p>D9 Building Bulk</p> <p>The proposal is appropriately designed and articulated noting that:</p>	Yes	Yes

Clause	Compliance with Requirement	Consistent with aims and objectives
<ul style="list-style-type: none"> <li>▪ The setbacks are increased at the upper level.</li> <li>▪ Large areas of continuous wall planes are avoided by varying building setbacks within each elevation and use of different materials to provide visual relief.</li> <li>▪ The proposed building height and scale to relates to the topography and site conditions, will be compatible with the height and bulk of adjoining dwellings, and result in an enhanced streetscape presentation.</li> <li>▪ The amount of proposed fill does not exceed one metre in depth.</li> <li>▪ The design is orientated to address the streets.</li> <li>▪ When viewed from each adjacent street, the design is highly articulated incorporating use of different setbacks and materials.</li> <li>▪ Landscape plantings are provided / maintained to reduce the visual bulk and enhance the proposed development.</li> </ul>		
<p>D10 Building Colours and Materials</p> <p>The proposal will employ appropriate materials and finishes to be compatible with the local, mixed development character.</p>	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
<p>D13 Front fences and front walls</p> <p>The following fencing is proposed, as shown of the architectural plans.</p> <ul style="list-style-type: none"> <li>▪ Timber vertical slat boundary fence and vehicle gate,</li> <li>▪ 1.2m and 1.8s high slatted front fence [1.8m in nominated sections in front of the private open spaces of each dwelling].</li> </ul> <p><b>Objectives</b></p> <ul style="list-style-type: none"> <li>• To ensure that fencing, terracing and retaining walls are compatible with the existing streetscape character while creating visual interest in the public domain.</li> <li>• To encourage innovative design solutions to improve the urban environment.</li> <li>• To avoid a 'walled in' streetscape.</li> </ul> <p><b>Requirements</b></p> <ol style="list-style-type: none"> <li>1. Fences, including side fences, located within the street setback area are to be compatible with the existing streetscape character.</li> <li>2. Where a solid fence is required it is to be</li> </ol>	Yes	Yes



Clause	Compliance with Requirement	Consistent with aims and objectives
<p><i>articulated to provide visual interest and set back to allow for landscaping to soften and screen the appearance of the fence.</i></p> <p><i>3. Fences located within the front building setback area are to complement the existing streetscape character.</i></p> <p><i>4. Fences are to be constructed to allow casual surveillance, except where there is excessive noise.</i></p> <p><i>5. Gates are not to encroach over the property boundary when opening or closing.</i></p> <p><i>6. Fences should complement the architectural period of the building.</i></p> <p><b>Response</b></p> <p>The site is located on a corner of a busy collector road, which experiences significant traffic. This necessitates a high front fence for safety and privacy.</p> <p><b>Safety and Privacy:</b></p> <p>The proposed 1.5 to 1.8m high front fence will enhance safety and privacy for residents, shielding them from the busy road and potential intrusions.</p> <p><b>Landscape Character:</b></p> <p>A large mature eucalypt tree in the front setback will be retained, contributing to biodiversity, providing shade, and improving air quality, aligning with environmental sustainability goals.</p> <p><b>Setbacks and Landscaping:</b></p> <p>The proposal includes generous front setbacks that exceed the minimum requirements, providing ample opportunities for landscaping behind the fence line, further enhancing the visual appeal and environmental quality of the site.</p> <p><b>Design and Aesthetics:</b></p> <p>The proposed front fence design is sympathetic to the surrounding environment and visually interesting, incorporating a variety of compatible materials to enhance the streetscape.</p> <p><b>The proposed fencing:</b></p> <ul style="list-style-type: none"> <li>▪ 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.</li> <li>▪ will be compatible with the existing streetscape character which includes garages adjacent to the east of the lot.</li> <li>▪ is articulated by the varied fence height and angular alignment to provide visual interest.</li> </ul>		

Clause	Compliance with Requirement	Consistent with aims and objectives
<ul style="list-style-type: none"> <li>will complement the architectural design and materials of the building by the use of vertical timber slats.</li> </ul>		
D14 Site facilities	Yes	Yes
D15 Side and rear fences	Yes	Yes
D16 Swimming Pools and Spa Pools	Yes	Yes
D17 Tennis courts	NA	NA
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
<b>Part E - The Natural Environment</b>		
E1 Preservation of Trees or Bushland Vegetation	Yes	Yes
E2 Prescribed Vegetation	NA	NA
E3 Threatened species, populations, ecological communities listed under State or Commonwealth legislation, or High Conservation Habitat	NA	NA
E4 Wildlife Corridors	Yes	Yes
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

### 5.2.2 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 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 an additional dwelling and replacement of the existing housing stock with contemporary BASIX compliant housing.
- 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 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 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.



## 7 Conclusion

Du Plessis 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 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.
- 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**