

**Statement of Environmental Effects
And Clause 4.6 Request for a Variation to a Development Standard**

For a

Two Storey Dwelling House

152 Bantry Bay Road

Frenchs Forest

Prepared for Fairmont Homes

**Planning Outcomes Pty Ltd
October 2021
0417 467 509**

Statement of Environmental Effects
152 Bantry Bay Road Frenchs Forest
Lot 5 DP 28391
LGA: Northern Beaches
Warringah Local Environmental Plan 2011
Warringah DCP

1. Description of Proposal: Two storey dwelling house with attached garage.

Ground Floor: Front portico, entry, double garage, laundry, linen press, powder room, guest bedroom, kitchen with walk-in-pantry, dining room, living room, and alfresco.

First Floor: Master bedroom with walk-in-wardrobe and ensuite, three bedrooms with built-in-wardrobes, bathroom, linen press and upper sitting room.

2. Site Analysis



Location Plan 152 Bantry Bay Road Frenchs Forest

The site is located on the western side of Bantry Bay Road and has a generally east-west orientation. The site has a rectangular shape with a frontage to Bantry Bay Road of 15.24m and a depth of 39.625m. The site area is 603.9m². The site has a fall of approximately 1.5m from the rear boundary to the front boundary.

The site contains an existing dwelling house and detached garage that will be demolished.

The site is adjoined on its southern boundary by a reserve and is located opposite a reserve on the eastern side of Bantry Bay Road and the western side of The Wakehurst Parkway. The site is bushfire prone - BAL 29. There is one tree on the road reserve and one tree in the rear north-western corner of the site, both of which will be unaffected by the proposed development.

3. State Policies

3.1 BASIX

A BASIX Certificate has been submitted with the development application.

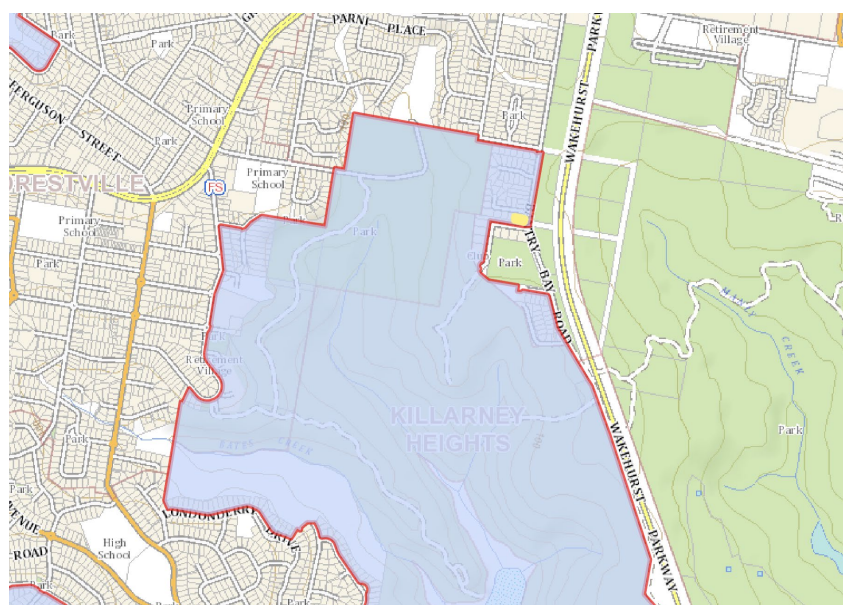
3.2 SEPP 55 - Remediation of Land

As the site has a history of residential use, it is not considered that the site is likely to be contaminated.

For this reason, no further investigation is considered necessary.

3.3 SEPP Coastal Management 2018

The subject site is affected by the *SEPP (Coastal Management) 2018*. The site is identified as being within the Coastal Use Area and is identified as being within the Coastal Environment Area. The land is not identified as being within the Coastal Wetland or Littoral Rainforest Area.



Coastal Environment Area (shaded blue) and red outline from Land Application Map. The subject site is shown in yellow.

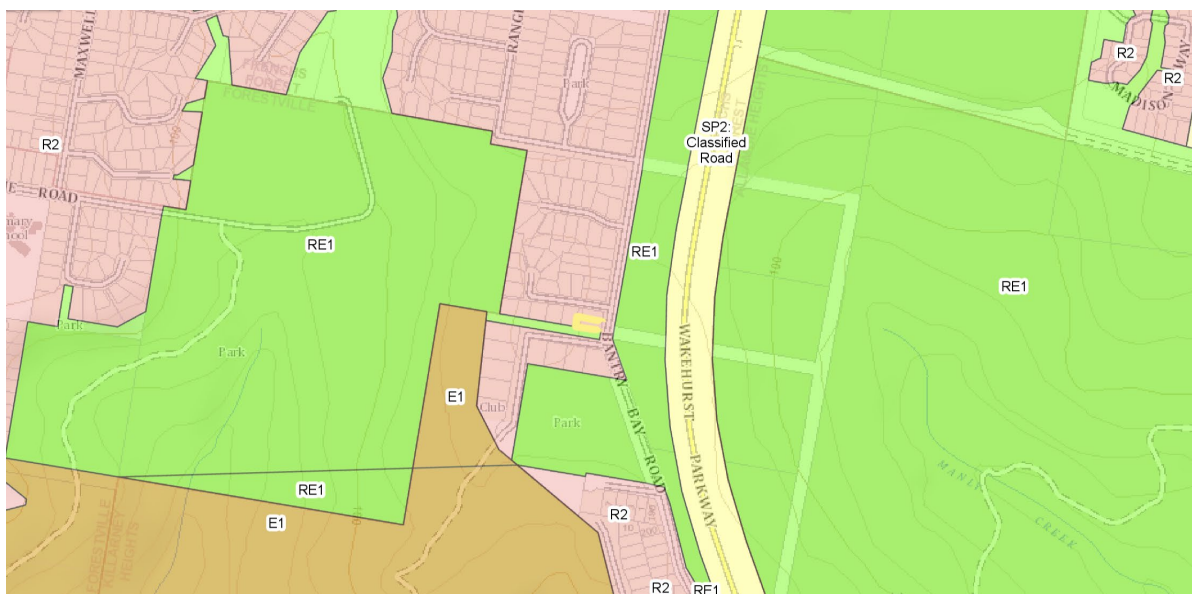
Part 2 Development Controls for Coastal Management Areas

Division 3 Coastal environment area and Division 4: Coastal Use Area Division 4: do not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The site is located within the Foreshores and Waterways Area of the SREP (Sydney Harbour Catchment) 2005.

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

The proposed development, not being located on a foreshore property will not cause any direct increased risk of coastal hazards. Erosion and sedimentation will be appropriately controlled during construction and stormwater will be controlled and managed throughout the life of the project. There will be no adverse impacts to water quality in the catchment.



The subject site (yellow) adjoins land zoned RE1 - Public Recreation

3.4 - SEPP 19 - Bushland in Urban Areas

9 Land adjoining land zoned or reserved for public open space

(1) This clause applies to land which adjoins bushland zoned or reserved for public open space purposes.

(2) Where a public authority:

- (a) proposes to carry out development on land to which this clause applies, or*
- (b) proposes to grant approval or development consent in relation to development on land to which this clause applies, the public authority shall not carry out that development or grant the approval or development consent unless it has taken into account:*
- (c) the need to retain any bushland on the land,*
- (d) the effect of the proposed development on bushland zoned or reserved for public open space purposes and, in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland, and*
- (e) any other matters which, in the opinion of the approving or consent authority, are relevant to the protection and preservation of bushland zoned or reserved for public open space purposes.*

The site adjoins land zoned RE1 Public Recreation. Erosion and sedimentation will be appropriately controlled during construction and stormwater will be controlled and managed throughout the life of the project. There will be no adverse impacts to the environmental quality of the adjoining reserve.

3.5 SREP (Sydney Harbour Catchment) 2005

The site is located within the Foreshores and Waterways Area of the SREP.

Part 3 Foreshores and Waterways Area (relevant provisions)

21 Biodiversity, ecology and environment protection

The matters to be taken into consideration in relation to biodiversity, ecology and environment protection are as follows—

- (a) development should have a neutral or beneficial effect on the quality of water entering the waterways,*
- (b) development should protect and enhance terrestrial and aquatic species, populations and ecological communities and, in particular, should avoid physical damage and shading of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities),*
- (c) development should promote ecological connectivity between neighbouring areas of aquatic vegetation (such as seagrass, saltmarsh and algal and mangrove communities),*

- (d) *development should avoid indirect impacts on aquatic vegetation (such as changes to flow, current and wave action and changes to water quality) as a result of increased access,*
- (e) *development should protect and reinstate natural intertidal foreshore areas, natural landforms and native vegetation,*
- (f) *development should retain, rehabilitate and restore riparian land,*
- (g) *development on land adjoining wetlands should maintain and enhance the ecological integrity of the wetlands and, where possible, should provide a vegetative buffer to protect the wetlands,*
- (h) *the cumulative environmental impact of development,*
- (i) *whether sediments in the waterway adjacent to the development are contaminated, and what means will minimise their disturbance.*

Erosion and sedimentation will be appropriately controlled during construction and stormwater will be controlled and managed throughout the life of the project. There will be no adverse impacts to the water quality of Sydney Harbour.

25 Foreshore and waterways scenic quality

The matters to be taken into consideration in relation to the maintenance, protection and enhancement of the scenic quality of foreshores and waterways are as follows—

- (a) *the scale, form, design and siting of any building should be based on an analysis of—*
 - (i) *the land on which it is to be erected, and*
 - (ii) *the adjoining land, and*
 - (iii) *the likely future character of the locality,*
- (b) *development should maintain, protect and enhance the unique visual qualities of Sydney Harbour and its islands, foreshores and tributaries,*
- (c) *the cumulative impact of water-based development should not detract from the character of the waterways and adjoining foreshores.*

The proposed dwelling house being a two storey building will not be clearly visible from Middle Harbour. The proposed dwelling house will not have a negative impact on the scenic quality of the harbour. The proposed dwelling house is of an appropriate scale and design for the low density residential locality of Frenchs Forest.

26 Maintenance, protection and enhancement of views

The matters to be taken into consideration in relation to the maintenance, protection and enhancement of views are as follows—

- (a) *development should maintain, protect and enhance views (including night views) to and from Sydney Harbour,*
- (b) *development should minimise any adverse impacts on views and vistas to and from public places, landmarks and heritage items,*
- (c) *the cumulative impact of development on views should be minimised.*

The proposed two storey will have no adverse on views to and from Sydney Harbour due to its low density scale and distance from the harbour.

4. Warringah Local Environmental Plan 2011

The site is zoned Residential R2 under the Warringah LEP 2011.

The controls contained in the LEP maps, which accompany the written instrument, are outlined below:

| Standard | Compliance |
|--|--|
| Height of Building 8.5m | No - 8.7m. There is a non-compliance of 200mm or 2.4% with the maximum height limit of 8.5m that applies to the site. |
| Land Slip Risk Map Area A (slope < 5 degrees). | The site is identified Area A. A preliminary landslip risk assessment is not required. |
| R2 - Low Density Residential | Dwelling houses are a permissible use. |
| Minimum Allotment Size 600m ² | Actual site area 603.9m ² . |

4.1 Clause 4.6 Variation

Extent of Variation

The maximum height permitted for a building under Clause 4.3 of the *Warringah LEP 2011* is 8.5m as shown on the Height of Buildings Map. The proposed height of 8.7m exceeds the development standard by 200mm or 2.4%

Objectives of R2 Low Density Zone - Warringah LEP 2013

Objectives of zone

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.*

The proposed development is for a single occupancy detached dwelling house which is consistent with the type of residential development suitable for a low density residential area. The proposed development is considered to be consistent

with the height and scale of adjoining and adjacent development and therefore will not have an adverse impact on the character or amenity of the area. The proposal achieves a soft landscaped area of over 40% which ensures that the proposal achieves a landscape setting in harmony with the natural environment of Warringah.

Objectives of the Standard - Clause 4.3- Height of Buildings - Warringah LEP 2011

The objectives of this clause are as follows:

- (a) to ensure that buildings are compatible with the height and scale of surrounding and nearby development,*
- (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access,*
- (c) to minimise any adverse impact of development on the scenic quality of Warringah's coastal and bush environments,*
- (d) to manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities.*

The proposed development meets the objectives of the height of buildings development standard as follows:

- The proposed development has a relatively minor departure from the maximum height limit that applies to the site (a 2.4% variation) and maintains a low density residential land use on the site consistent with surrounding development.
- The proposed development is compatible with the desired future character for the area which is to retain predominantly low density residential accommodation in the form of detached dwellings with a maximum height of two storeys.
- The proposed dwelling house is compatible with the height and scale of the surrounding and nearby development which comprises predominantly single storey and two storey dwelling houses.
- The proposed development will not adversely affect the streetscape, skyline or landscape character due to the minor non-compliance with the development standard.
- The minor variation in the maximum height limit of 200mm will not significantly alter the visual impact of the development or disrupt views.
- The minor variation in the maximum height limit of 200mm will not have a significant impact on the privacy and solar access of adjoining development.
- The minor variation in the maximum height limit of 200mm will not have any adverse impact on the scenic quality of Warringah's coastal and bush environments.
- The minor variation in the maximum height limit of 200mm will not significantly impact on the view of the proposed development from the adjoining public reserves.

Whether the objectives of the standard and of the R2 Low Density Zone are satisfied notwithstanding the non-compliance with the standard

As outlined above, the proposed development satisfies the objectives for development in the R2 Low Density Residential zone and the objectives of the development standard. Therefore the proposed development will be in the public interest because it is consistent with the objectives of the height of buildings development standard and the objectives for development within the zone in which the development is proposed to be carried out.

Reasons in support of the exception

Clause 4.6(3) of the *Warringah LEP 2011* states that *development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

i) Compliance with the development standard is considered to be unreasonable and unnecessary in the circumstances of the case as the non-compliance is minor at 2.4% and, notwithstanding the numerical non-compliance, the proposal satisfies the objectives of the development standard and the objectives for development in the zone.

ii) There are considered to be sufficient environmental planning grounds to justify contravening the development standards as follows:

- the height and scale of the proposed dwelling house is compatible with the height and scale of surrounding and nearby development envisaged under the relevant controls and the non-compliance with the height of buildings standard, because it is minor, is not a contributing factor in the perception of building height and scale.
- the non-compliance with the height of buildings standard because it is minor, will not have any adverse amenity impacts to adjoining properties with regard to disruption to views, overshadowing or loss of privacy.
- the non-compliance with the height of buildings standard is minor and will not impact on the scenic quality of the surrounding bushland, public recreation reserve or Sydney harbour.

Conclusion

As required by Clause 4.6(3) and (4) this written justification adequately demonstrates that:

- compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
- there are sufficient environmental planning grounds to justify contravening the development standard; and,
- the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

5. Table of Compliance - Warringah Development Control Plan

| Design Element or Item | Minimum Standard or Control |
|------------------------|---|
| Front Setback | Minimum 6.5m. <i>The proposed dwelling has a front setback of 10.06m to the front porch. Complies.</i> |
| Side Setback | Minimum 900mm. Building envelope also applies. <i>Proposed side setbacks are 1.5m on the southern side boundary and 1.27m on the northern side boundary. Complies.</i> |
| Rear Setback | Rear Setbacks are to be a minimum of 6m. <i>Complies - 8.194m.</i> |
| Height Limit | Maximum wall height 7.2m. <i>Actual Wall height for dwelling house: 6.445m Complies.</i> |
| Number of Storeys | Two storeys. Complies. |
| Side Boundary Envelope | 4m at the side boundaries and 45 degrees. <i>The proposed dwelling house complies generally with the boundary envelope. There is a minor eave and gutter</i> |

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| | <p><i>encroachment on the northern side boundary but the proposal complies generally with the building envelope control. The side setback is a minimum of 2.23m to the first floor wall on the northern side boundary to account for the building envelope control.</i></p> <p><i>On the southern elevation, the ground floor and first floor are setback at 1.5m from the side boundary. There is a minor wall encroachment of 400mm inot the building envelope on the southern elevation at the front of the house as the site slopes down towards the street.</i></p> <p><u>Objectives for control B3 Side Boundary Envelopes</u></p> <ul style="list-style-type: none"> • To ensure that development does not become visually dominant by virtue of its height and bulk. • To ensure adequate light, solar access and privacy by providing spatial separation between buildings. • To ensure that development responds to the topography of the site. <p><i>It is considered that the proposed development meets the objectives of the control as follows:</i></p> <ul style="list-style-type: none"> • <i>On the side elevations, the minimum side setback of 900mm is increased to 1.5m and 2.23m at the first floor level to take account of the building envelope control.</i> • <i>The adequate side setbacks and the stepping in of the first floor from the ground floor on the northern side elevation ensures that the dwelling does not have a visually bulky appearance and has adequate spatial separation from the adjoining residence at 150 Bantry Bay Road.</i> • <i>The non-compliance with the building envelope control at the front of the building is in part due to site constraints as the site slopes towards the street</i> • <i>The rear part of the dwelling is single storey and will complies with the building envelope at the rear elevation.</i> • <i>The site adjoins a reserve on its southern side boundary so that there are no overshadowing impacts to adjoining dwellings.</i> • <i>There is adequate spatial separation between the proposed dwelling house and the adjoining dwelling house at 150 Bantry Bay Road to maintain adequate light, solar access and privacy to this adjoining residence.</i> • <i>Privacy will be maintained as there are no living area</i> |
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| | <i>windows at the first floor facing towards the northern side boundary or rear boundary.</i> |
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| Landscape and Open Space Requirements | <p><u>Landscaping</u> Minimum 40% landscaped area.</p> <p>The water surface of swimming pools and impervious surfaces, which occur naturally such as rock outcrops, are included in calculation of landscaped open space.</p> <p>c <i>42.9% provided - refer to architectural plan showing landscape area calculations and landscape plan.</i></p> <p><u>Private Open Space</u> Private open space is to be a minimum of 60m² with minimum dimensions of 5m. <i>Complies - 124.87m².</i></p> |
| | |
| Energy Efficiency | <i>BASIX Certification achieved.</i> |
| | |
| Overshadowing | <p>At least 50% of the required private open space of proposed dwelling and adjoining dwellings is to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21.</p> <p>At least 50% of glazed area of windows to the principal living area of proposed dwelling and adjoining dwellings must receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21.</p> <p><i>There is no overshadowing to any adjoining residence as the site adjoins a reserve on its southern boundary.</i></p> |
| | |
| Stormwater | <p><i>Site Area: 603.9m².</i></p> <p><i>A 6,000L rainwater tank is to be installed for water retention and reuse. Stormwater can be drained under gravity flow to the street.</i></p> |
| | |
| Parking | <p>Garage doors and carports are to be integrated into the housing design and not dominate the façade. Parking is to be located so that views of the street from front windows are not obscured.</p> <p>Where garages and carports face the street, ensure that the garage or carport opening does not exceed 6 metres or 50% of the building width, whichever is the lesser</p> |

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| | <i>A double garage is provided as part of the proposed development. The double garage is recessed behind the front façade of the dwelling, and the garage door comprises less than 50% of the width of the building (38.6%) and is less than 6m wide (4.81m wide).</i> |
| Access | <p>Gradient not to exceed 1:4 and allow for transitions at a minimum length of 1.5m and at a grade no steeper than 1:10.</p> <p><i>Complies.</i></p> |
| Privacy and Noise | <p>In particular, the windows of one dwelling are to be located so they do not provide direct and close views (i.e. from less than 9m away) into the windows of other dwellings.</p> <p>The effective location of windows and balconies to avoid overlooking is preferred to the use of screening devices, high sills or obscured glass.</p> <p>Building layout to be designed to optimise privacy.</p> <p>Orientate living areas, habitable rooms and windows to private open space areas or the street to limit overlooking.</p> <p><i>At the first floor there will be no overlooking to adjoining properties from the rear facing bedroom windows and the northern facing bathroom window. There is one living area on the first floor which has views towards the front of the side and towards the reserve on the southern side boundary.</i></p> <p><i>At the ground floor level, views from living area windows face towards the reserve or the rear yard.</i></p> <p><i>There will be no significant privacy impacts to adjoining properties.</i></p> |
| Levels | Levels to AHD. |
| Cut & Fill | On sloping land, the height and bulk of development, particularly on the downhill side, is to be minimised and the need for cut and fill reduced by designs that minimise the building footprint and allow the building mass to step down the slope. |

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| | <p>In particular:</p> <ul style="list-style-type: none"> • The amount of fill is not to exceed more than one metre in depth; and • Fill is not to spread beyond the footprint of the building. • Excavation of the landform is to be minimised <p><i>The site is relatively flat and has a slight crossfall.</i></p> <p><i>Maximum fill is approximately 215mm which complies with the maximum limit allowed of 1m</i></p> <p><i>Maximum excavation is approximately 385mm. Complies with Council's controls.</i></p> |
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6. Matters for Consideration Pursuant to Section 4.15 (79C) of the Environmental Planning and Assessment (Amendment) Act, 1997

(a) the provisions of:

- (i) any environmental planning instrument;***
- (ii) any draft environmental planning instrument***
- (iii) any planning agreement***
- (iv) any development control plan;***
- (v) any matters prescribed by the regulations***
- (vi) any coastal management plan***

that apply to the land to which the development application relates.

The proposed development at 152 Bantry Bay Road Frenchs Forest is a permissible use in the Residential R2 zone under the provisions of the *Warringah Local Environmental Plan 2011*. The proposed dwelling house complies with the guidelines for development contained in the Warringah Development Control Plan. Any departure from the numeric controls is considered to be minor and justified in the table above.

(b) the likely impacts of the development, including environmental impacts on both the natural and built environments and social and economic impacts in the locality.

- it is considered that the proposed development will not have an adverse impact on the environment;
- stormwater will be disposed of according to Council requirements and erosion and sedimentation will be appropriately controlled during construction;
- it is considered that the potential impact of the proposed development in terms of privacy and solar access to adjoining residences is reasonable;

- the social and economic impacts of the development are considered minor due to the size of the development proposal;

(c)the suitability of the site for the development

- the site, is considered suitable for the construction of a single dwelling and a secondary dwelling and has no major environmental constraints to development.

(d)any submissions made in accordance with this Act or the regulations

- the development will be subject to Council's Notification Policy

(e)the public interest

- the proposed development will make a positive contribution to the existing housing stock and is recommended for approval.