



# STATEMENT OF ENVIRONMENTAL EFFECTS

Torrens Title  
Subdivision of 1 Lot  
into 2 Lots

38 Undercliff Road,  
Freshwater

Suite 1, 9 Narabang Way Belrose NSW 2085

Phone: (02) 9986 2535 | [www.bbfplanners.com.au](http://www.bbfplanners.com.au)

NOTE: This document is Copyright. Apart from any fair dealings for the purposes of private study, research, criticism or review, as permitted under the Copyright Act, no part may be reproduced in whole or in part, without the written permission of Boston Blyth Fleming Pty Ltd, 1/9 Narabang Way Belrose, NSW, 2085.

# Statement of Environmental Effects

**Torrens Title Subdivision of 1 Lot into 2 Lots**

**38 Undercliff Road, Freshwater**

**Greg Boston**

B Urb & Reg Plan (UNE) MPIA  
Boston Blyth Fleming Pty Ltd  
(ACN 121 577 768)

Suite 1/9 Narabang Way  
Belrose NSW 2085

Tel: (02) 99862535

March 2025

## TABLE OF CONTENTS

<b>1</b>	<b>Introduction .....</b>	<b>4</b>
<b>2</b>	<b>Site Analysis.....</b>	<b>5</b>
2.1	Site Description and Location .....	5
<b>3</b>	<b>Description of Development.....</b>	<b>6</b>
3.1	Details of the Proposed Development.....	6
<b>4</b>	<b>Statutory Planning Framework .....</b>	<b>8</b>
4.1	Warringah Local Environmental Plan 2011 .....	8
4.1.1	Zoning and Permissibility .....	8
4.1.2	Minimum subdivision lot size.....	8
4.1.3	Earthworks.....	9
4.1.4	Development on sloping land.....	9
4.2	Warringah Development Control Plan 2011 .....	10
4.3	Matters for Consideration Pursuant to Section 4.15 of the EP&A Act.....	12
<b>5</b>	<b>Conclusion .....</b>	<b>17</b>

## 1 Introduction

On 31<sup>st</sup> January 2025 development consent DA2024/1430 was granted for demolition works and the construction of a dual occupancy (attached) including Strata subdivision.

This statement has been prepared in support of a development application seeking the Torrens Title subdivision of the approved dual occupancy on the basis that the consent authority will impose an appropriately worded condition of consent ensuring that the subdivision is not registered until such time as an Occupation Certificate has been granted for the approved dual occupancy.

In addition to this Statement of Environmental Effects this application is accompanied by a draft plan of subdivision prepared by Bee & Lethbridge Surveyors. In preparation of this document, consideration has been given to the following:

- Environmental Planning and Assessment Act, 1979, as amended (**EP&A Act**),
- Warringah Local Environmental Plan 2011 (**WLEP 2013**),
- Warringah Development Control Plan (**WDCP**)

Although the application seeks a variation to the minimum subdivision lot size standard contained within WLEP 2011 strict compliance has been found to be unreasonable and unnecessary given the ability to satisfy the underlying objectives and the fact that development consent DA2024/1430 demonstrates that each of the proposed allotments is capable of being accommodated by a dwelling house which has been found to be consistent with the applicable environmental considerations and built form controls. This submission is accompanied by the required clause 4.6 variation request which we consider to be well-founded.

The inconsistency between the subject development application, if approved, and the previous strata subdivision consent can be remedied pursuant to Section 4.17(1)(b) of the Act with such provisions enabling the imposition of a condition requiring the administrative modification of another consent applying to the land. No objection is raised to an appropriately worded condition in this regard.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15 of the EP&A Act. It is considered that the proposed development, the subject of this document, is appropriate on merit and is worthy of the granting of development consent.

## 2 Site Analysis

### 2.1 Site Description and Location

The site known as Lot 22, DP 5118, No. 38 Undercliff Road, Freshwater is trapezoidal in shape having primary frontage and address to Undercliff Road of 15.825 metres, secondary frontage to Moore Lane of 15.45 metres, variable depth of between 36.955 and 38.705 metres and an area of 576.7m<sup>2</sup>. The subject property falls approximately 6 metres across its surface towards Moore Lane and does not contain any remarkable trees or landscape features. An aerial photograph depicting the site and its surrounds is below.



Source: SIX Maps

**Figure 1** – Aerial Location Map

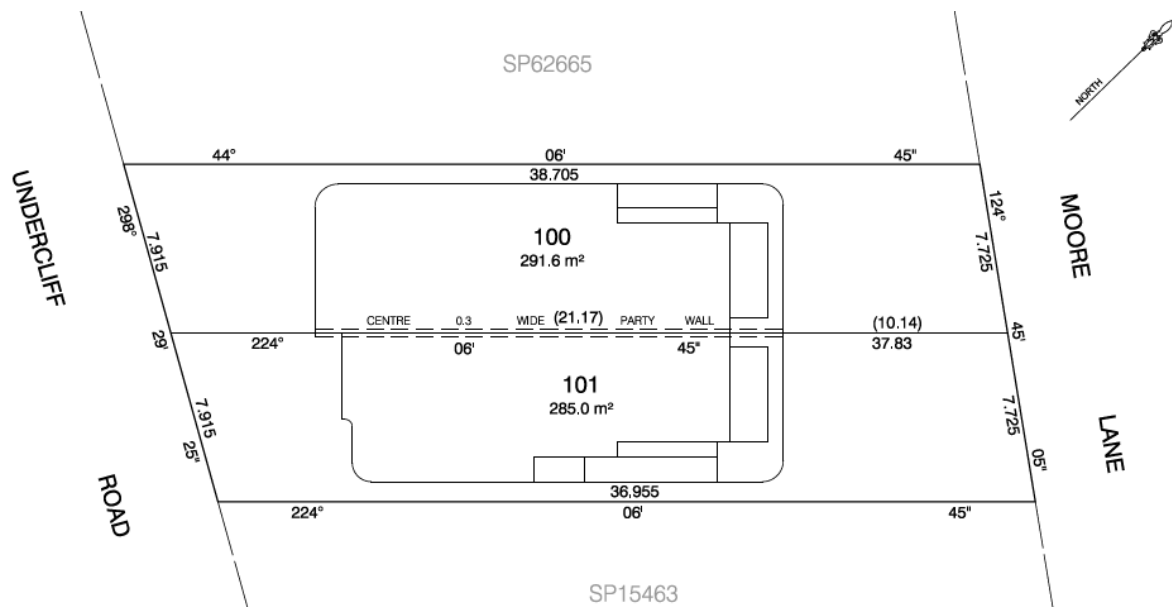
### 3 Description of Development

#### 3.1 Details of the Proposed Development

On 31st January 2025 development consent DA2024/1430 was granted for demolition works and the construction of a dual occupancy (attached) including Strata subdivision.

This statement has been prepared in support of a development application seeking the Torrens Title subdivision of the approved dual occupancy on the basis that the consent authority will impose an appropriately worded condition of consent ensuring that the subdivision is not registered until such time as an Occupation Certificate has been granted for the approved dual occupancy.

The proposed subdivision is depicted on the accompanying draft plan of subdivision prepared by CMS Surveyors an extract of which is below.



**Figure 2** - Draft plan of subdivision extract.



The proposed allotments have the following characteristics:

Lot	Lot area sqm	Lot width	Lot depth
100	291.6sqm	7.915m	37.83 - 38.705m
101	285sqm	17.915m	36.955 – 37.83m

The dwellings currently under construction on each of the proposed lots will be separately serviced and accordingly no easements are required for services.

No physical works are required to facilitate the proposed subdivision.

## 4 Statutory Planning Framework

The following section of the report will assess the proposed development having regard to the statutory planning framework and matters for consideration pursuant to Section 4.15 of the EP&A Act. Those matters which are required to be addressed are outlined, and any steps to mitigate against any potential environmental impacts are discussed below.

### 4.1 Warringah Local Environmental Plan 2011

#### 4.1.1 Zoning and Permissibility

The subject property is zoned R2 Low Density Residential pursuant to the provisions of the Warringah Local Environmental Plan 2011 (WLEP). Dual occupancy development is prohibited in the zone however permissible pursuant to clause 166 within Part 2 of Chapter 6 SEPP Housing 2021 with subdivision permissible pursuant to clause 2.6 of WLEP.

#### 4.1.2 Minimum subdivision lot size

Pursuant to clause 4.1(2) WLEP 2011, the size of any lot resulting from the subdivision on land shall not be less than 450m<sup>2</sup>. The objectives of this clause are as follows:

- (a) to protect residential character by providing for the subdivision of land that results in lots that are consistent with the pattern, size and configuration of existing lots in the locality,*
- (b) to promote a subdivision pattern that results in lots that are suitable for commercial and industrial development,*
- (c) to protect the integrity of land holding patterns in rural localities against fragmentation,*
- (d) to achieve low intensity of land use in localities of environmental significance,*
- (e) to provide for appropriate bush fire protection measures on land that has an interface to bushland,*
- (f) to protect and enhance existing remnant bushland,*
- (g) to retain and protect existing significant natural landscape features,*
- (h) to manage biodiversity,*
- (i) to provide for appropriate stormwater management and sewer infrastructure.*



As previously indicated, the proposed allotments have the following lot sizes:

Lot	Lot area sqm	Lot width	Lot depth
100	291.6sqm	7.725 - 7.915m	37.83 - 38.705m
101	285sqm	7.725 - 7.915m	36.955 – 37.83m

Proposed Lot 100 seeks a variation of 158.4sqm (35.2%) whilst proposed Lot 101 seeks a variation of 165sqm (36.6%).

Clause 4.6 of WLEP 2011 provides a mechanism by which a development standard can be varied and to that extent a clause 4.6 variation request has been prepared and is attached separately. Such request demonstrates that the development is consistent the objectives of the minimum subdivision lot size standard and as such strict compliance is both unreasonable and unnecessary. Further, sufficient environmental planning grounds exist to justify the variation sought. The 4.6 variation request is well founded.

#### 4.1.3 Earthworks

The proposed subdivision does not require any earthworks and accordingly the provisions of clause 6.2 WLEP 2011 are satisfied.

#### 4.1.4 Development on sloping land

The proposed subdivision does not require any earthworks and accordingly the provisions of clause 6.4 WLEP 2011 are satisfied.

## 4.2 Warringah Development Control Plan 2011

Control	Requirement	Proposed	Compliance
<b>Subdivision DCP Control C1</b>	Minimum width: 13m	<u>Lot 100</u>	
	Minimum depth: 27m	Minimum width: 7.7.25m	No
	Minimum building area: 150m <sup>2</sup>		Acceptable on merit
	Objectives:	Minimum depth: 37.83m	Yes
	<ul style="list-style-type: none"> <li>To regulate the density of development.</li> <li>To limit the impact of new development and to protect the natural landscape and topography.</li> </ul>	Building area as approved pursuant to DA2024/1430	Yes
	<ul style="list-style-type: none"> <li>To ensure that any new lot created has sufficient area for landscaping, private open space, drainage, utility services and vehicular access to and from the site.</li> </ul>	<u>Lot 101</u>	
	<ul style="list-style-type: none"> <li>To maximise and protect solar access for each dwelling.</li> <li>To maximise the use of existing infrastructure.</li> <li>To protect the amenity of adjoining properties.</li> <li>To minimise the risk from potential hazards including</li> </ul>	Minimum width: 7.725m	No
		Minimum depth: 36.955m	Acceptable on merit
		Minimum building area: as approved pursuant to DA2024/1430	Yes
		Each lot is non-compliant with the 13m minimum width requirement of this clause. The application proposes the construction of a dwelling house on each lot as approved pursuant to DA2024/1430.	Yes

Control	Requirement	Proposed	Compliance
	bushfires, land slip and flooding.	<p>In relation to the objectives of the control we note the following.</p> <ul style="list-style-type: none"> <li>• The approval of DA2024/1430 demonstrates that despite non-compliance with the minimum width prescribed, the lots can be developed without adverse impacts upon the natural landscape or the topography of the site.</li> <li>• The approval of DA2024/1430 demonstrates that each proposed lot has sufficient space for landscaping, private open space, drainage, utility services and vehicular access to and from the site.</li> <li>• The approval of DA2024/1430 demonstrates that development has been designed to ensure maximum sunlight to each dwelling, whilst also maintaining compliant levels of solar access for the adjoining dwellings.</li> <li>• The proposed development does not result in any adverse impacts upon the</li> </ul>	

Control	Requirement	Proposed	Compliance
		<p>amenity of adjoining properties as a consequence of the non-compliance with the minimum width development control.</p> <ul style="list-style-type: none"> <li>The proposal will remain safe from hazards.</li> </ul> <p>Under such circumstances strict compliance has been found to be unreasonable and unnecessary.</p>	

### 4.3 Matters for Consideration Pursuant to Section 4.15 of the EP&A Act

The following matters are to be taken into consideration when assessing an application pursuant to section 4.15 of the EP&A Act:

#### (i) The provision of any planning instrument

Subdivision is permissible with consent.

**(ii) Any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and**

N/A

#### (iii) Any development control plan

WDCP is applicable to this application and has been considered in detail in this report.

**(iiia) Any Planning Agreement that has been entered into under section 7.4 or any draft planning agreement that a developer has offered to enter into under Section 7.4, and**

N/A

**(iv) The Regulations (to the extent that they prescribe matters for the purposes of this paragraph), and**

N/A

**(v) Any Coastal Zone Management Plan (within the meaning of the Coastal Protection Act 1979)**

N/A

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

[The assessment considers the Guidelines (in italics) prepared by the Department of Planning and Environment in this regard].

*Context and Setting*

*i. What is the relationship to the region and local context in terms of:*

- *The scenic qualities and features of the landscape*
- *The character and amenity of the locality and Streetscape*
- *The scale, bulk, height, mass, form, character, density and design of development in the locality*
- *The previous and existing land uses and activities in the locality*

The subdivision does not compromise the natural, built form, streetscape or residential amenity outcomes afforded through approval of development consent DA2024/1430.

*ii. What are the potential impacts on adjacent properties in terms of:*

- *Relationship and compatibility of adjacent land uses?*
- *sunlight access (overshadowing)*
- *visual and acoustic privacy*
- *views and vistas*
- *edge conditions such as boundary treatments and fencing*

As above.

*Access, transport and traffic:*

*Would the development provide accessibility and transport management measures for vehicles, pedestrians, bicycles and the disabled within the development and locality, and what impacts would occur on:*

- *travel demand*
- *dependency on motor vehicles*

- *traffic generation and the capacity of the local and arterial road network*
- *public transport availability and use (including freight rail where relevant)*
- *conflicts within and between transport modes*
- *Traffic management schemes*
- *Vehicular parking spaces*

The subdivision does not compromise the vehicular access arrangement approved pursuant to development consent DA2024/1430.

#### *Public Domain*

The proposed development will have no adverse impact on the public domain.

#### *Utilities*

Services will be upgraded as a component of development consent DA2024/1430.

#### *Flora and Fauna*

No change.

#### *Waste Collection*

Normal domestic waste collection will be in place.

#### *Natural hazards*

No impact.

#### *Economic Impact in the locality*

No impact.

#### *Site Design and Internal Design*

*Is the development design sensitive to environmental considerations and site attributes including:*

- *size, shape and design of allotments*
- *The proportion of site covered by buildings*
- *the position of buildings*
- *the size (bulk, height, mass), form, appearance and design of buildings*
- *the amount, location, design, use and management of private and communal open space*

- *Landscaping*

The subdivision does not compromise the natural, built form, streetscape or residential amenity outcomes afforded through approval of development consent DA2024/1430.

*How would the development affect the health and safety of the occupants in terms of:*

- *lighting, ventilation and insulation*
- *building fire risk – prevention and suppression*
- *building materials and finishes*
- *a common wall structure and design*
- *access and facilities for the disabled*
- *likely compliance with the Building Code of Australia*

N/A

#### *Construction*

*What would be the impacts of construction activities in terms of:*

- *The environmental planning issues listed above*
- *Site safety*

Nil.

#### ***(c) The suitability of the site for the development***

- *Does the proposal fit in the locality*
- *Are the constraints posed by adjacent development prohibitive*
- *Would development lead to unmanageable transport demands and are there adequate transport facilities in the area*
- *Are utilities and services available to the site adequate for the development*
- *Are the site attributes conducive to development*

The site is located in an established residential area. The adjacent development does not impose any unusual or impossible development constraints. The subject property is suitable for the proposed Torrens Title subdivision.

#### ***(d) Any submissions received in accordance with this act or regulations***

It is envisaged that Council will appropriately consider any submissions received during the notification period.



***(e) The public interest***

On 31st January 2025 development consent DA2024/1430 was granted for demolition works and the construction of a dual occupancy (attached) including Strata subdivision.

This statement has been prepared in support of a development application seeking the Torrens Title subdivision of the approved dual occupancy on the basis that the consent authority will impose an appropriately worded condition of consent ensuring that the subdivision is not registered until such time as an Occupation Certificate has been granted for the approved dual occupancy.

Accordingly, the subdivision does not compromise the natural, built form, streetscape or residential amenity outcomes afforded through approval of development consent DA2024/1430. Under such circumstances approval of the proposed subdivision would not be antipathetic to the public interest.

## 5 Conclusion

On 31st January 2025 development consent DA2024/1430 was granted for demolition works and the construction of a dual occupancy (attached) including Strata subdivision.

This statement has been prepared in support of a development application seeking the Torrens Title subdivision of the approved dual occupancy on the basis that the consent authority will impose an appropriately worded condition of consent ensuring that the subdivision is not registered until such time as an Occupation Certificate has been granted for the approved dual occupancy.

Although the application seeks a variation to the minimum subdivision lot size standard contained within WLEP 2011 strict compliance has been found to be unreasonable and unnecessary having regard to the ability to satisfy the underlying objectives and the fact that development consent DA2024/1430 demonstrates that each of the proposed allotments is capable of being accommodated by a dwelling house which has been found to be consistent with the applicable environmental considerations and built form controls including density. This submission is accompanied by the required clause 4.6 variation request which we consider to be well-founded.

The inconsistency between the subject development application, if approved, and the previous Court granted consent in relation to the form of subdivision can be remedied pursuant to Section 4.17(1)(b) of the Act with such provisions enabling the imposition of a condition requiring the administrative modification of another consent applying to the land. No objection is raised to an appropriately worded condition in this regard.

The proposal succeeds when assessed against the Heads of Consideration pursuant to section 4.15 of the EP&A Act. It is considered that the proposed development, the subject of this document, is appropriate on merit and is worthy of the granting of development consent.

**Boston Blyth Fleming Pty Limited**



**Greg Boston**

**Director**