

STATEMENT OF ENVIRONMENTAL EFFECTS

**Demolition and
construction of a new
dwelling house**

**31 Charles Street,
Freshwater**

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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 dwelling house and secondary dwelling at 31 Charles Street, Freshwater. The proposal is depicted in the accompanying architectural plans by Giles Tribe architects. A summary of the key aspects of the proposal are noted as follows:

- Demolition of existing structures.

Basement level

- 3 car spaces
- Stair
- Gym
- Mechanical plant/equipment, services, and storage spaces

Ground floor level -

- Entry
- Open plan kitchen, dining, living, media
- Study
- Terrace to front and rear
- External dining/living to rear
- Laundry
- WC and basin

First floor level –

- 4 bedrooms
- Walk-in-robe
- 3 bathrooms

External

- 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.



Figure A – architectural render of the proposal

2 Site Analysis

2.1 Site and location description

The site is located at 31 Charles Street, Freshwater and legally described as Lot 1 in Deposited Plan 955852. The site has an area of 607m².

The site is rectangular in shape having a north-west (front) to south-east (rear) orientation.

The site has a frontage of 15.24m to Charles Street, side boundaries of 40.235m and a rear boundary of 15.24m.

The site is occupied by a dwelling house with integrated garage, which consists of a 2-storey building, brick rendered with a metal roof. There is a swimming pool in the rear yard.

The local topography slopes from north to south. The site experiences a modest cross fall from north to south, with a level difference of approximately 600 millimetres at the rear boundary.

There are no prominent topographical features or indigenous vegetation located on the property.

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



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

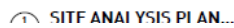




Figure 5 – existing dwelling house character and interface with 27 Charles Street to the south



Figure 6 – existing dwelling house character and interface with 33 Charles Street to the north

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.

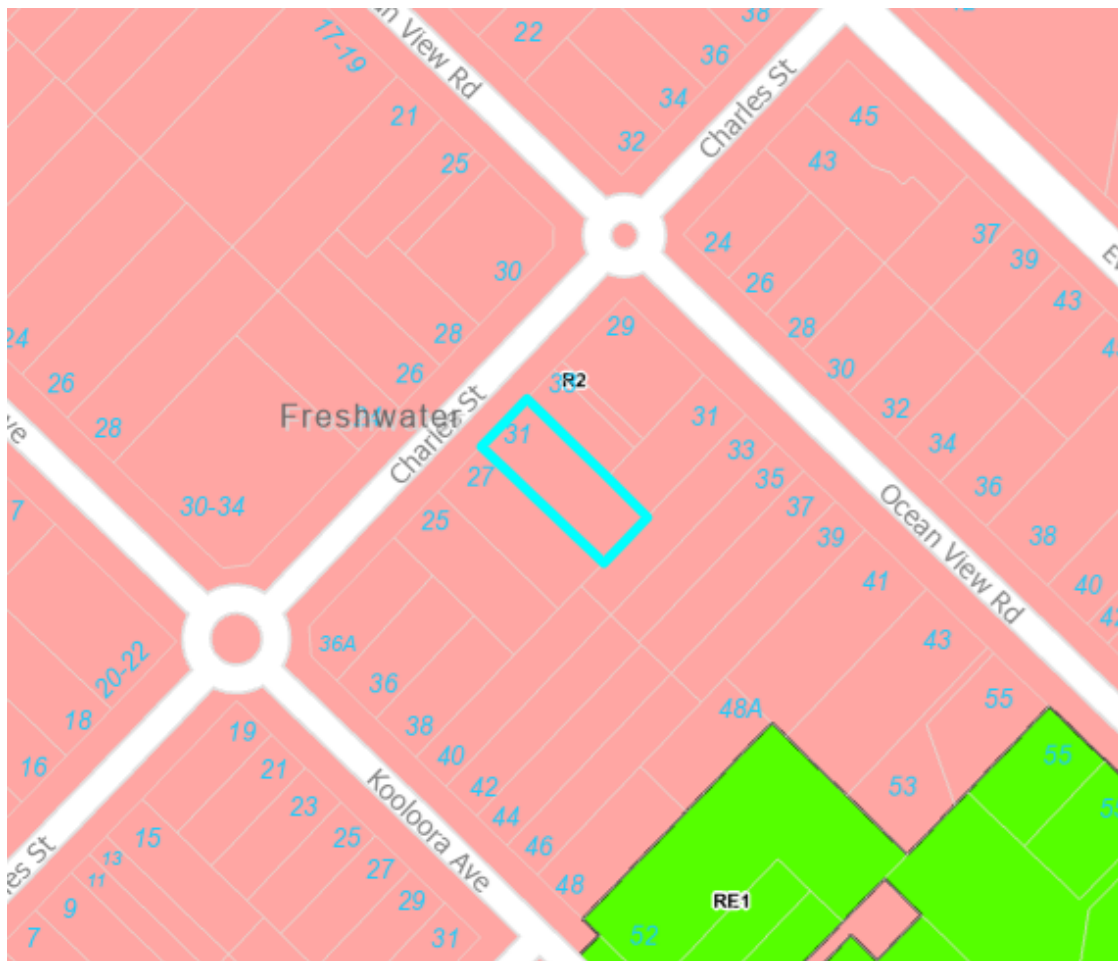


Figure 7 – zoning map excerpt (Council's website)

The proposal constitutes demolition and construction of a new dwelling and secondary dwelling. The proposal is permitted within this zone with Development Consent.

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 lot size 450m ²	NA	NA
LEP Clause 4.3 – Height of Buildings 8.5m	The proposed development exceeds the 8.5m building height standard in relation to a minor section of the vaulted clerestory roof as documented on the architectural and survey plans.	No
LEP Clause 4.4 – Floor space ratio	NA	NA
LEP Clause 4.6 – Exceptions to development standards	A clause 4.6 exception request for building height accompanies the DA.	Yes
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	Council’s maps do not identify the site as being flood affected.	Yes
Part 6 of LEP – Additional Local Provisions		
LEP Clause 6.1 Acid sulfate soils	NA	NA
LEP Clause 6.2 Earthworks	Excavation for footings and the basement level are proposed below the existing site levels. The application is accompanied by a geotechnical assessment, landscape plan and stormwater management plans that demonstrate that the proposal is appropriate for the site. A stormwater management plan accompanies	Yes

LEP Provision	Response	Complies
	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. 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 5.2.3 of this report. 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. Heritage is not relevant to the proposed development. Not being in a heritage conservation area, it is unlikely relics will be disturbed. There are no drinking water catchments or environmentally sensitive areas proximate to the site. 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. Based on the above the proposed development satisfies the considerations within clause 6.2 and the site is suitable for the development proposed.	
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

4.3 State Environmental Planning Policy

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 are 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 a designated tree within the rear of the northern neighbouring property at 33 Charles Street, Freshwater. The tree is a *Cupaniopsis anacardioides* commonly called Tuckerroo or Green-leaved Tamarind, located '2m from the northern boundary' (arborist report), proximate to the proposed development.

An arborist report notes:

Given the location of the tree on the neighbouring property the existing boundary fence will offer adequate protection. The proposed excavation based on the plans provided will not impact on the SRZ, however the project arborist should be present for this part of the excavation.

Prior to the commencement of any construction works a project arborist is to be appointed. The project arborist is to advise on, monitor, inspect and ensure compliance where trees are retained within and where required, adjacent to the site.

Any work within a designated tree protection zone requires authorisation from the project arborist. Given that the TPZ encroachment is marginally greater than the 10% threshold, the project arborist should be present when this part of the excavation occurs in case root pruning is required.

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.

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 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.

5.2.1 Proposed dwelling house

Clause	Requirement	Proposed	Complies?
B1 Wall Height	7.2m	An exception is displayed for a section of the southern side of the proposed dwelling house ranges up to approximately 400mm as shown in figure 12 below. The numerical variation is acknowledged, and justification is provided in response to the planning control objectives as noted below.	No
Objectives <i>'To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.</i> <i>To ensure development is generally beneath the existing tree canopy level.</i> <i>To provide a reasonable sharing of views to and from public and private properties.</i> <i>To minimise the impact of development on adjoining or nearby properties.</i> <i>To ensure that development responds to site topography and to discourage excavation of the natural landform.</i> <i>To provide sufficient scope for innovative roof pitch and variation in roof design'.</i>		The proposal satisfies the objectives of the control, for the following reasons: The site is not within view of bushland, coastal land, or sensitive public recreational areas. The northern side wall of the proposed dwelling is under the 7.2 metre limit. The crossfall of the land from north to south (by approx. 600 mm) contributes to the exception. The wall height exception: ▪ minimises its height and bulk noting the modest area and extent of the exception ▪ will be beneath the tree canopy height, which for native vegetation is typically 10 to 20 metres. ▪ will not result in inappropriate view sharing	

Clause	Requirement	Proposed	Complies?
		impacts, as addressed separately below. - will not result in a visually intrusive development noting, the inset first floor level, varied materials and articulated design. - will not result in inappropriate amenity impacts on privacy or overshadowing, as addressed separately below. - A contemporary roof design of visual interest is proposed, It will improve the passive design qualities of the development by increasing solar access to the upper level and natural ventilation to the dwelling. Based on the above, the proposed wall height variation is appropriate in the circumstances. The proposed variation is modest meets the objectives of the planning control and warrants support.	
B3 Side Boundary Envelope	5m at 45 degrees required South side: 7.334m North side: 7.334m	North side: complies South side: complies except for a minor exception at the southwestern corner of the building as shown in figure 11. The proposed side boundary envelope exceedance ranges up to approximately 290mm over a modest distance. 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.	Yes No
Control objectives - 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.		height and bulk The proposed building does not become visually dominant by virtue of the minor side boundary envelope exception which is isolated to the southwestern corner of the proposed dwelling house. The design incorporates measures to achieve appropriate height and bulk noting: the increased side setbacks of the first floor level to the side boundaries making the upper level visually recessive when viewed from adjoining land.	

Clause	Requirement	Proposed	Complies?
		- the incorporation of a contemporary, low profile roof form. - the exception is not adjacent to sensitive areas (e.g. living room windows or private open spaces) within the adjoining property at 29 Charles Street. - despite the proposed exception the design will result in an inset and recessive upper level, - the design is modulated, employs use of different materials, is within a landscaped setting, is compatible with the height and bulk of adjoining dwellings, and will result in a compatible streetscape presentation. Furthermore, the proposed height and bulk of the design is compatible with mix of building forms within the visual catchment. light, solar access and privacy Adequate light, solar access and privacy is achieved by the design despite the minor side boundary envelope exception. The proposed development complies with the DCP's privacy, amenity and solar access requirements, as separately addressed below. Topography The site experiences a crossfall of approximately 600 millimetres. The exception is partly attributed to the topography of the land and is minor in extent. 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.	
B5 Side Setback	900mm	South side: Basement level – 0.264m Ground floor level – 1.134m First level – 2.334m North side – Basement level – 0.264m Ground floor level – 1.134m First level – 2.334m 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	No Yes Yes No Yes Yes

Clause	Requirement	Proposed	Complies?
		noted below.	
Control objectives ▪ To provide opportunities for deep soil landscape areas. ▪ To ensure that development does not become visually dominant. ▪ To ensure that the scale and bulk of buildings is minimised. ▪ To provide adequate separation between buildings to ensure a reasonable level of privacy, amenity and solar access is maintained. ▪ To provide reasonable sharing of views to and from public and private properties.		▪ There are appropriate opportunities for deep soil landscape areas at the front and rear of the site, which follows the pattern of dwelling house development within the local area. ▪ A compatible front setback is proposed and the development will result in an enhanced landscape frontage to the property as demonstrated by the landscape plan that accompanies the DA. ▪ An appropriate scale and bulk is achieved by the design as separately addressed herein. ▪ The basement level is mostly concealed below the finish ground level and does not add inappropriately to the height of the proposed building. ▪ A compliant basement setback would not provide increased opportunity to accommodate significant trees given the east-west orientation of the site and the adjacent two storey patterns of dwelling houses. ▪ Compliant side setbacks are achieved for the development above the ground level, providing adequate separation between the subject site and the adjoining dwelling houses. ▪ The proposed development complies with the DCP's privacy, amenity and solar access requirements, as separately addressed below. ▪ Reasonable sharing of views to and from public and private properties is achieved by the DA as separately addressed below.	
B7 Front Setbacks	Primary 6.5m	Variable – minimum 6.5m A planter box at the front of the dwelling extends into the front setback by approx. 600mm. This is assessed as appropriate noting that: ▪ it is a landscaped element that will be appropriately planted. ▪ it has a cantilevered, position approx. 1m above the ground level and will not add bulk to	Yes

Clause	Requirement	Proposed	Complies?
		the building. - the neighbouring property at 33 Charles Street to the north is well forward displaying front setbacks of 2.75 to 4.95m. - it will enhance the presentation of the dwelling and add articulation to the front façade.	
B9 Rear Setback	6m	16m	Yes



Figure 8 – architectural render of the proposal. The design's streetscape presentation is modulated employing various setbacks, different materials and landscaping.



Figure 9 – The design’s streetscape presentation is modulated employing various setbacks, different materials and landscaping.



Figure 10 – a terrace is proposed at the front of the dwelling house to optimise midwinter solar access to the living room and private open space

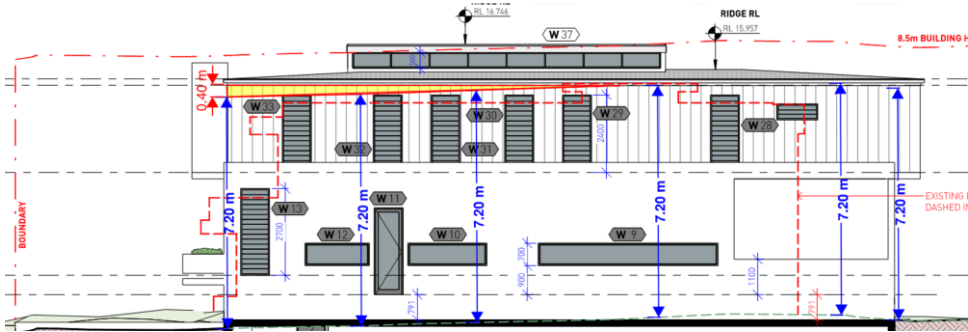


Figure 11 – location and extent of the side boundary envelope exception on the southern side marked red/yellow

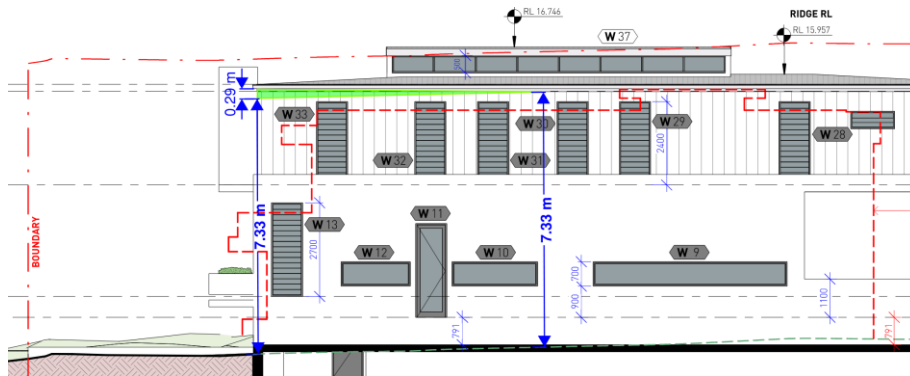


Figure 12 – location and extent of the wall height exception on the southern side shaded green

5.2.2 Broader DCP compliance assessment

Clause	Compliance with Requirement	Consistent with aims and objectives
Part C - Siting Factors		
C2 Traffic, Access and Safety	Yes	Yes
C3 Parking Facilities Existing: 2 car spaces. Proposed: 3 car spaces.	Yes	Yes
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	Yes	Yes

Clause	Compliance with Requirement	Consistent with aims and objectives
Site area: 607m² 40% / 242.8 m² Proposed: 236.7m²/ 38.9 % (as shown on plan DA401) Exception: 6.1 m²/ 3% Response 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 does not result in the inappropriate removal of indigenous vegetation or topographical features. 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. 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. The design provides a development footprint that is compatible with the mixed pattern of development within the street. 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. There are no inappropriate privacy or solar impacts associated with the proposal. These matters are separately addressed below. The proposal provides adequate open areas for service functions, including clothes drying. 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. Based on the above, the objectives of the control are satisfied, and the circumstances are appropriate for Council to be flexible in applying the numerical control.		

Clause	Compliance with Requirement	Consistent with aims and objectives
D2 Private open space Required: 3 bedroom dwellings - a total of 60m² with minimum dimensions of 5 metres. Response: the dwelling house includes a rear terrace, front balcony and rear yard. The proposal meets and exceeds the minimum dimensions and area.	Yes	Yes
D3 Noise	Yes	Yes
D4 Electromagnetic radiation	NA	NA
D5 Orientation and energy efficiency	Yes	Yes
D6 Access to Sunlight 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. The DCP requires: <i>'1. Development should avoid unreasonable overshadowing any public open space.</i> <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> The site and the adjoining properties have a north-west / south east orientation to Charles Street. In accordance with Clause D6 of the DCP, the sunlight available to the private open space of the adjoining dwelling at 29 Charles Street 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. Furthermore, with the inclusion of the front balcony, the private open space within the proposed dwelling will achieve at least three hours of sunlight between 9am and 3pm on 21 June. The provisions of the control are satisfied by the proposal.	Yes	Yes
D7 Views –	Yes	Yes

Clause	Compliance with Requirement	Consistent with aims and objectives
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. 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.		
D8 Privacy – Privacy has been considered in the proposed design and satisfies the DCP's objectives. The following aspects of the proposal are noted: ▪ 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. ▪ There is a narrow balcony proposed off the main bedroom at the rear of the upper level that has a privacy screen along its southern edge. 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. ▪ See further comments below in section 5.2.3 of this report in relation to privacy between the rear outdoor spaces. It is concluded that the proposal will not inappropriately impact upon the visual privacy of the neighbouring properties.	Yes	Yes
D9 Building Bulk The proposal is appropriately designed and articulated noting that: ▪ 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 relates	Yes	Yes

Clause	Compliance with Requirement	Consistent with aims and objectives
to topography and site conditions, will be compatible with the height and bulk of adjoining dwellings, and result in an enhanced streetscape presentation. ▪ The amount of proposed fill does not exceed one metre in depth. ▪ The design is orientated to address the street. ▪ The design includes articulated walls to reduce building mass. When viewed from the sides, the 1st floor level is inset. When viewed from the street, the design is highly articulated incorporating is of different setbacks and materials. ▪ Landscape plantings are provided / maintained to reduce the visual bulk and enhance the proposed dwelling house.		
D10 Building Colours and Materials The proposal will employ appropriate materials and finishes to be compatible with the local, mixed development character.	Yes	Yes
D11 Roofs	Yes	Yes
D12 Glare and Reflection	Yes	Yes
D13 Front fences and front walls	NA	NA
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
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

Clause	Compliance with Requirement	Consistent with aims and objectives
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

5.2.3 C7 Excavation and landfill

Control C7 Excavation and landfill is applicable to the land and the proposed development. The provisions of the controls are repeated below along with how the proposed development appropriately responds.

Objectives

To ensure any land excavation or fill work will not have an adverse effect upon the visual and natural environment or adjoining and adjacent properties.

To require that excavation and landfill does not create airborne pollution.

To preserve the integrity of the physical environment.

To maintain and enhance visual and scenic quality.

Responses –

In response to the first objective, the majority of the basement level is concealed below the finish ground level and therefore does not add inappropriately to the appearance of the proposed building. It provides principally for storage and the housing of vehicles, thereby minimising the visibility of the driveway (it falls away from the street level) and car parking areas which will be obscured. The excavation does not adversely impact any significant topographical features.

In response to the second objective, the proposed earthworks will be managed and finished to not result in inappropriate creation of airborne pollution.

The third objective is responded to below.

In response to the fourth objective, the proposed earthworks will not be visible from adjoining land or the public domain. Therefore it, or the subsequent development, will not have an adverse impact on the visual and scenic quality.

Requirements

"1. All landfill must be clean and not contain any materials that are contaminated and must comply with the relevant legislation".

Response - fill within the rear yard will be sourced from the excavation of the proposed basement level on the subject site, it will not contain contamination and will comply with the relevant legislation.

"2. Excavation and landfill works must not result in any adverse impact on adjoining land".

Response – the impact on adjoining land will be satisfactory and is addressed below.

"3. Excavated and landfill areas shall be constructed to ensure the geological stability of the work".

Response - the geological stability of the proposed fill will be structurally contained by concrete footings and masonry, perimeter retaining walls as shown on the accompanying plans.

"4. Excavation and landfill shall not create siltation or pollution of waterways and drainage lines, or degrade or destroy the natural environment".

Response – the DA is accompanied by stormwater management plans and siltation control plans that will provide appropriate management of stormwater.

"5. Rehabilitation and revegetation techniques shall be applied to the fill".

Response - the fill within the yard is proposed to be turfed which will provide appropriate containment and revegetation of the soil.

"6. Where landfill is necessary, it is to be minimal and shall have no adverse effect on the visual and natural environment or adjoining and surrounding properties".

Response –

The proposed landfill will provide a level transition from the ground floor living areas of the proposed dwelling house to the principal private open space.

The proposed level ranges in height from approximately 100mm to 737mm. Its relationship to the adjoining properties is addressed below.

In response to the third objective and Requirement 2 and the amenity to rear yards

Sections are provided within the landscape plans that show the relationship between the existing rear yards and the proposed development. They demonstrate, for example, the crossfall of the land (up to 600 millimetres), the levels of the adjacent land near the boundary, the proposed elevation of the rear yard, the dividing fencing height, the location and height of landscaping to be maintained.

It is noted in relation to the rear yard of 33 Charles Street (north side):

- A 1.134m setback is proposed to the fence line.

- Raising the level to RL 8.937 is proposed. The rear yard level with 33 Charles Street near the common fence line is RL 8.84, therefore a level difference of plus 97mm is proposed.
- Privacy- an effective fence height of 1.7m is maintained. Screen planting is proposed within the 1.134 side setback which is dedicated to planting, as shown on the landscaping plant ('mass planting'). A condition may be imposed to require maintenance of the planting to a minimum height of 2m.
- There will be no shading impact on the property.

It is noted in relation to the rear yard of 29 Charles Street (south side):

- A 1.134m setback is proposed to the fence line.
- Raising of level to RL 8.937 is proposed. The rear yard level with 33 Charles Street near common fence line is RL 8.64, therefore a level difference of plus 737mm is proposed.
- Privacy- an effective fence height of 1.1m is maintained. An additional 600mm section could be added to a section of the fence to maintain an effective fence height of 1.7m. This may form a condition of consent. There is screen planting established along the fence line which is able / proposed to be maintained as shown on the landscaping plans. A condition may be imposed to require maintenance of the planting.

Based on the above the proposed excavation and landfill works will preserve the integrity of the physical environment and result in appropriate impacts on adjoining land.

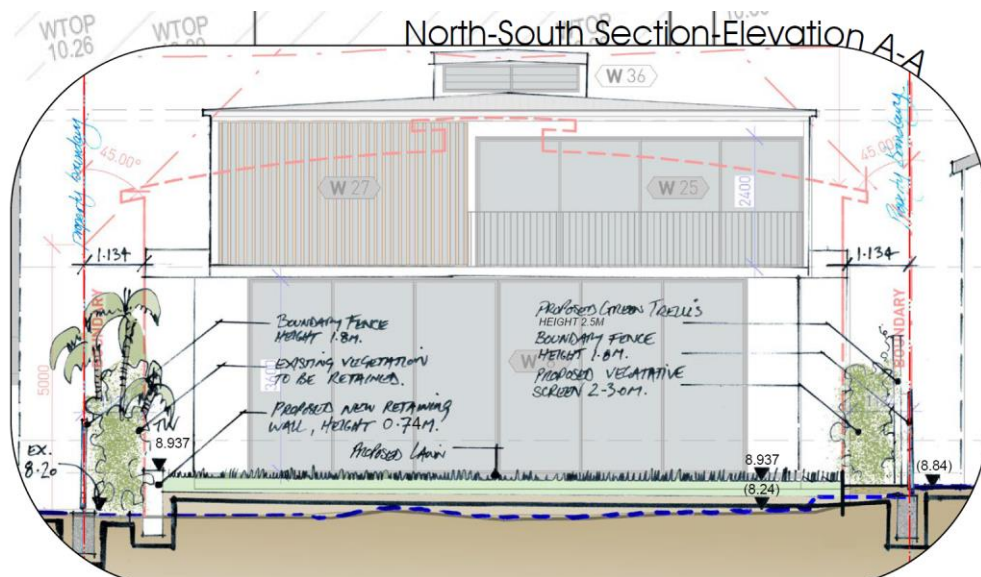


Figure 13 – excerpt from landscape plan showing interface with rear of the adjacent properties

5.2.4 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 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 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

The application seeks development consent for demolition of the existing development and construction of a new dwelling house and secondary dwelling at 31 Charles Street, Freshwater.

Giles Tribe 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