

## **STATEMENT OF ENVIRONMENTAL EFFECTS**

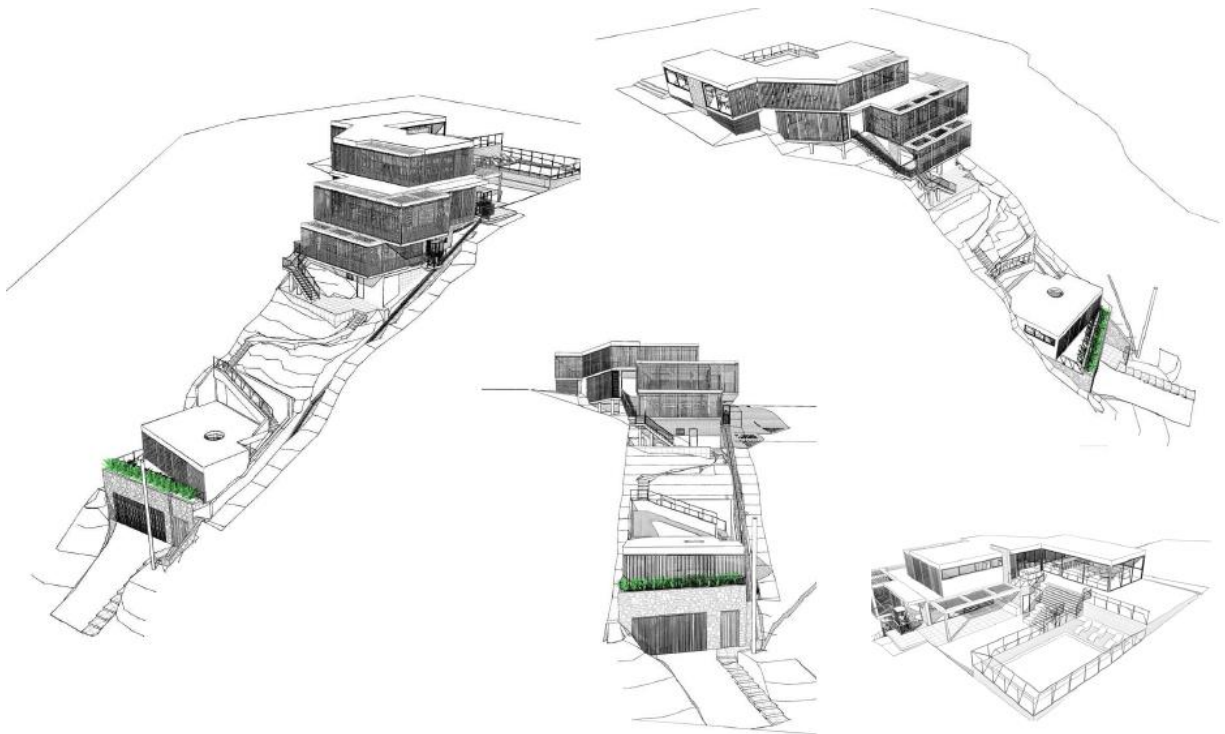
**FOR PARTIAL DEMOLITION OF THE EXISTING DWELLING AND CONSTRUCTION  
OF A NEW DWELLING INCLUDING RETENTION OF SUBSTANTIAL PORTIONS OF  
THE EXISTING DWELLING & A DETACHED SECONDARY DWELLING  
OVER A GARAGE, TOGETHER WITH A SWIMMING POOL & LANDSCAPING**

**LOCATED AT**

**38 THE DRIVE, FRESHWATER**

**FOR**

**MICHAEL ADDISON**



**Prepared  
June 2022**

## **Table of Contents**

1.0	Introduction .....	3
2.0	Property Description .....	3
3.0	Site Description .....	4
4.0	The Surrounding Environment .....	13
5.0	Proposed Development .....	14
6.0	Zoning and Development Controls .....	16
6.1	State Environmental Planning Policy (Resilience and Hazards) 2021 .....	16
6.2	State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 .....	18
6.3	Warringah Local Environmental Plan 2011 .....	19
6.4	Warringah Development Control Plan 2011 .....	22
7.0	Matters for Consideration under Section 4.15 of The Environmental Planning and Assessment Act, 1979 .....	32
7.1	Any environmental planning instrument .....	32
7.2	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 Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and .....	32
7.3	Any development control plan .....	32
7.4	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 .....	32
7.5	The regulations (to the extent that they prescribe matters for the purposes of this paragraph) .....	32
7.6	The likely impacts of that development, including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality. ....	32
7.7	The suitability of the site for the development .....	33
7.8	Submissions made in accordance with this Act or the regulations .....	33
7.9	The public interest .....	33
8.0	Conclusion .....	33

Appendix: Written Request – Clause 4.6 - Maximum Building Height

## 1.0 Introduction

This Statement of Environmental Effects accompanies architectural plans prepared by sketchArc on behalf of Michael Addison, Project No 2046, Drawings No. DA1 – DA42, dated 19 May 2022, detailing the partial demolition of the existing dwelling and construction of new dwelling including the retention of substantial portions of the existing dwelling and the inclusion of a detached secondary dwelling over a garage, together with a swimming pool and landscaping at **38 The Drive, Freshwater**.

This Statement describes the subject site and the surrounding area, together with the relevant planning controls and policies relating to the site and the type of development proposed. As a result of this assessment it is concluded that the development of the site in the manner proposed is considered to be acceptable and is worthy of the support of the Council.

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

- *The Environmental Planning and Assessment Act, 1979 as amended*
- *The Environmental Planning and Assessment Regulation 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *Warringah Local Environmental Plan 2011 (WLEP 2011)*
- *Warringah Development Control Plan 2011 (WDCP 2011)*

## 2.0 Property Description

The subject allotment is described as 38 The Drive, Freshwater, being Lot 12 within Deposited Plan 829988. The site is zoned R2 Low Density Residential under the provisions of WLEP 2011.

The site is not listed as a heritage item, is not located within a conservation area and is not located within the vicinity of any items of heritage significance.

The land is identified as being within Areas B & C on the Landslip Risk Map of WLEP 2011, and accordingly this matter will be discussed in further detail within this submission.

The site is identified as being within the Coastal Use Area under the provisions of SEPP (Resilience and Hazards), and this matter will be discussed in further detail within this submission.

No other identified hazards have been identified.

### 3.0 Site Description

The property is located adjacent to the juncture of The Drive and Dick Street, on the western side of The Drive.

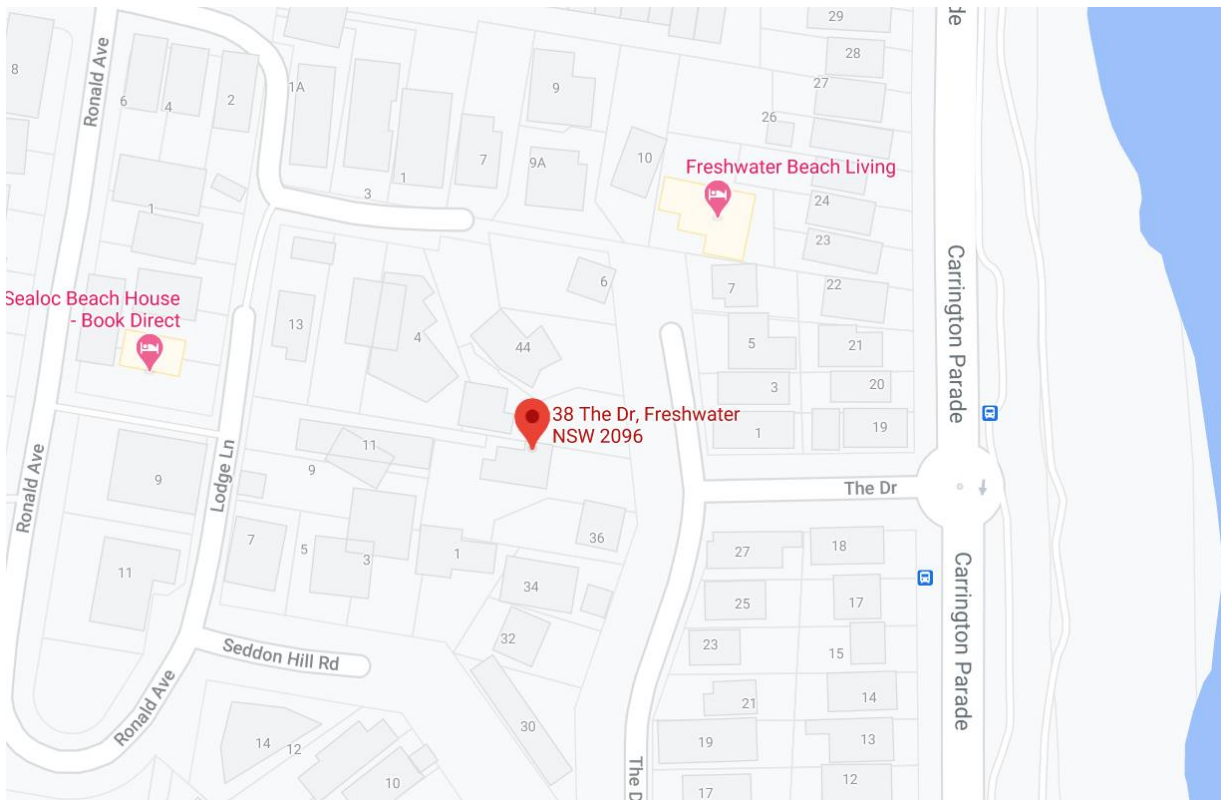
The site is irregular in shape, with a street frontage of 14.255m to The Drive and a rear boundary of 24.395m. The northern and angled southern side boundaries measure 36.37m and 43.38m respectively. The land has a total site area of 985.7m<sup>2</sup>.

The land has a fall of approximately 24.6m from the rear of the site towards the street frontage.

Stormwater from the site is directed to the Council's stormwater infrastructure within the road reserve (The Drive).

The site is currently developed with a one and two storey tile clad residence with a metal roof. A covered timber deck is located in the rear, north-western corner of the site. Vehicular access is available to the site from The Drive via a concrete driveway. Car parking is currently available on site within an existing detached double garage at the front of the site. An inclinometer is located along the northern side boundary.

The details of the site are as indicated on the survey plan prepared by Adam Clerke Surveyors Pty Ltd, Drawing No. 6213A, dated 22 October 2020, which accompanies the DA submission.



**Fig 1: Location of subject site**  
(Source: Google Maps)



**Fig 2: View looking west up The Drive towards the subject site, and noting the vacant site to the south, resulting from the recent demolition of the existing dwelling at No 1 Seddon Hill Road**



**Fig 3: View of the subject site and existing detached garage, looking west from The Drive**



**Fig 4: View of the subject site and the adjoining dwelling at No 36 The Drive, looking south-west**



**Fig 5: View of the subject site and adjoining property at No 40 The Drive, looking north-west**



**Fig 6: View of the existing development to the east of the site in The Drive**



**Fig 7: View of the existing access stairs and road reserve forward of the site, looking south**



**Fig 8: View of the existing bin storage area and road reserve forward of the site, looking north**



**Fig 9: View looking north-east from the current terrace over the garage**



**Fig 10: View of the existing inclinator (which is to be retained and extended to the new entry foyer at road level) looking upslope to the west**



**Fig 11: View of the adjacent dwelling at No 36 The Drive, looking south from the existing garage roof terrace**



**Fig 12: View of the adjoining dwelling at No 40 The Drive, looking north-west**



**Fig 13: View of the rear elevation of the subject dwelling, looking east from rear boundary**



**Fig 14: View of the adjoining dwelling to the north at No 40 The Drive, looking north-east**



**Fig 15: View of the of adjoining properties to the west of the site**



**Fig 16: View looking south-east over the yard area of the subject dwelling towards the adjoining dwelling at No 1 Seddon Hill Road**



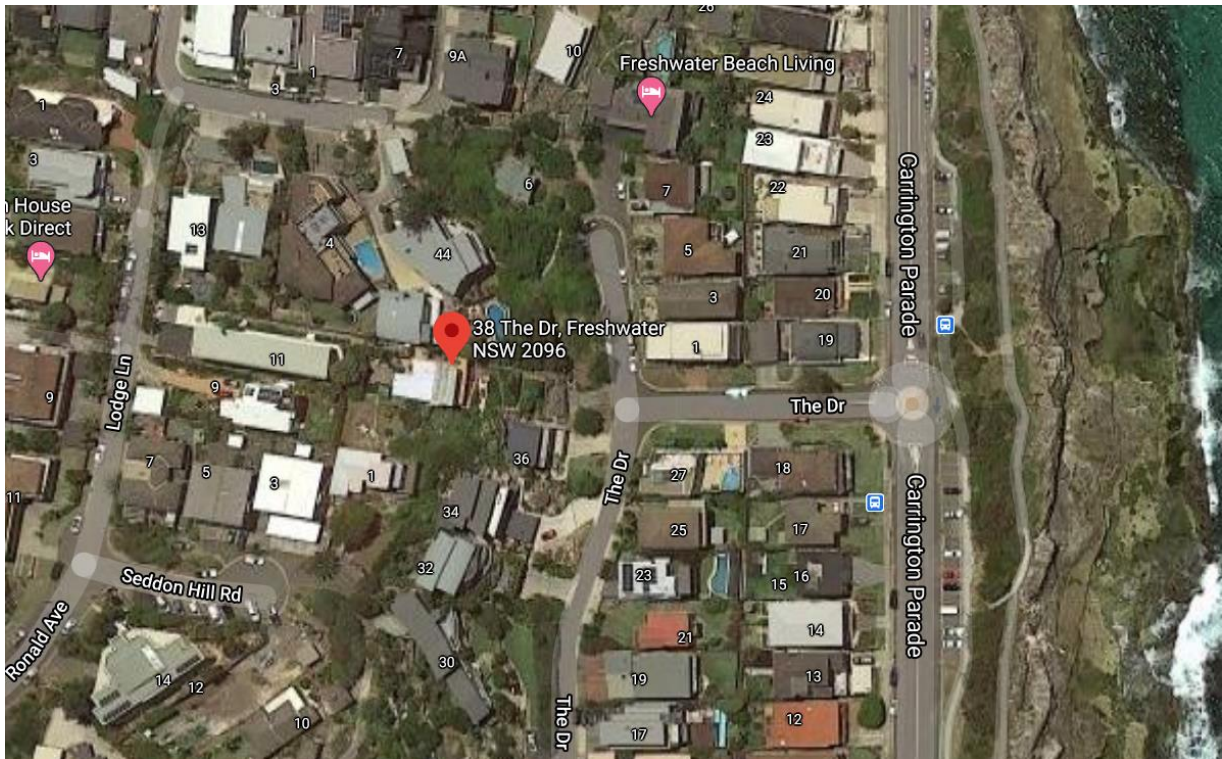
**Fig 17: View looking south over the rear yard of the subject site towards the adjoining properties**

#### 4.0 The Surrounding Environment

The general vicinity of the site is characterised by a mix of single detached dwellings and associated ancillary structures such as garages, storage sheds and swimming pools. The pattern of the development is influenced heavily by the sloping topography and the irregular shape of lots in the immediate locality.

Properties in the area enjoy views to Freshwater Beach to the south-east and towards North Curl Curl headland to the north-east.

The site and its surrounds are depicted in the following aerial photograph:



**Fig 18: Aerial view of locality**  
(Source: Google Maps)

## 5.0 Proposed Development

As detailed within the accompanying plans, the proposal seeks consent for the partial demolition of the existing dwelling and the construction of a new dwelling including retention of substantial portions of the existing dwelling and the construction of a new secondary dwelling over the detached garage, together with a swimming pool and landscaping.

The proposal development has been assessed against the Land & Environment Court's Demolition Planning Principle developed in *Coorey v Municipality of Hunters Hill [2013]* as to whether the extent of demolition constitutes alterations and additions or a new dwelling.

When assessed against the Demolition Planning Principle, it is considered that notwithstanding the retention of significant elements of the existing dwelling, the external appearance and form of the new dwelling will be radically altered and for abundant caution, the development is best described as a *"Partial demolition of the existing dwelling and construction of new dwelling including the retention of substantial portions of the existing dwelling and the inclusion of a detached secondary dwelling over a garage, together with a swimming pool and landscaping"*.

The extent of the new works and the visual change to the building through the inclusion of the new floor area is such that the proposal is considered to most appropriately described as a new dwelling.

The new works will comprise:

### Garage/Secondary Dwelling

#### **Garage Level**

- Demolition works; including the removal of the walls and roof of the existing garage, the bin storage area and existing access stairs
- Construction of a new three (3) car garage and store
- Construction of a new entry foyer and spiral access stairs
- Extension of the existing inclinator and the construction of a new inclinator access station at the Garage Level
- Construction of a new driveway crossover and pedestrian landing within the road reserve

#### **Level 1**

- Construction of a new secondary dwelling, comprising one bedroom, kitchenette, bathroom, lounge, dining area, front deck and rear courtyard
- New landscaped/green roof over the secondary dwelling
- External access stairs to primary dwelling

### Primary Dwelling

#### **Level 1**

- Retention of existing storage area

## Level 2

- Demolition works
- Extension of an existing sitting and living area to provide for an expanded guest bedroom and sitting area, with retention of existing office and bathroom
- New internal access stairs to upper levels
- New deck and external access stairs

## Level 3

- Demolition works
- New bedroom and en-suite
- New laundry and pantry
- New and expanded open plan kitchen, living and dining area
- Entrance foyer
- New rear patio and front decking.

## Level 4

- Master bedroom suite, with balcony, ensuite and WIR,
- Sitting room
- Entertaining area

## External works

- Swimming pool; and
- Tree removal and associated landscaping

The dwelling will be finished in weatherboard cladding, painted in a dark grey tone, with dark grey Colorbond roof sheeting and solid timber decking, as detailed in the Materials and Finishes Schedule provided to support the application.

The proposal will maintain a generous area of soft landscaping and will not require the removal of any significant vegetation.

An Arboricultural Impact Assessment has been prepared by Peake Arboriculture, dated 26 May 2022 which addresses the impacts on the works on five trees within the site and neighbouring properties. The assessment concludes that all trees can be retained and provides recommendations to be adhered to during construction to ensure the safe retention of the trees in question.

The proposal results in the following development indices:

Site Area:	985.7m <sup>2</sup>
Required Landscaped Area:	40% or 394.28m <sup>2</sup>
Proposed Landscaped Area:	42.1% or 415.29m <sup>2</sup>

## **6.0 Zoning and Development Controls**

### **6.1 State Environmental Planning Policy (Resilience and Hazards) 2021**

#### Coastal Hazard

The subject site is identified as being within the coastal use area on the Coastal Use Area Map and therefore the provisions of Chapter 2 of SEPP (Resilience and Hazards) are applicable to the proposed development.

The stated Aim of this Chapter as outlined in clause 2.1 is to:

*The aim of this Chapter is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by:*

- (a) managing development in the coastal zone and protecting the environmental assets of the coast, and*
- (b) establishing a framework for land use planning to guide decision-making in the coastal zone, and*
- (c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.*

The objects set out in Clause 3 of the Coastal Management Act 2016 are:

- (a) to protect and enhance natural coastal processes and coastal environmental values including natural character, scenic value, biological diversity and ecosystem integrity and resilience, and*
- (b) to support the social and cultural values of the coastal zone and maintain public access, amenity, use and safety, and*
- (c) to acknowledge Aboriginal peoples' spiritual, social, customary and economic use of the coastal zone, and*
- (d) to recognise the coastal zone as a vital economic zone and to support sustainable coastal economies, and*
- (e) to facilitate ecologically sustainable development in the coastal zone and promote sustainable land use planning decision-making, and*
- (f) to mitigate current and future risks from coastal hazards, taking into account the effects of climate change, and*
- (g) to recognise that the local and regional scale effects of coastal processes, and the inherently ambulatory and dynamic nature of the shoreline, may result in the loss of coastal land to the sea (including estuaries and other arms of the sea), and to manage coastal use and development accordingly, and*
- (h) to promote integrated and co-ordinated coastal planning, management and reporting, and*
- (i) to encourage and promote plans and strategies to improve the resilience of coastal assets to the impacts of an uncertain climate future including impacts of extreme storm events, and*
- (j) to ensure co-ordination of the policies and activities of government and public authorities relating to the coastal zone and to facilitate the proper integration of their management activities, and*

- (k) to support public participation in coastal management and planning and greater public awareness, education and understanding of coastal processes and management actions, and*
- (l) to facilitate the identification of land in the coastal zone for acquisition by public or local authorities in order to promote the protection, enhancement, maintenance and restoration of the environment of the coastal zone, and*
- (m) to support the objects of the Marine Estate Management Act 2016.*

It is submitted that the proposal, as considered in this Statement of Environmental Effects, is consistent with the objects of the SEPP (Resilience and Hazards), as set out in Clause 3 of the Coastal Management Act 2016. The relevant provisions of this Chapter are addressed as follows:

#### ***Division 4***

##### ***2.11 Development on land within the coastal use area***

- (1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—*
  - (a) has considered whether the proposed development is likely to cause an adverse impact on the following—*
    - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
    - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*
    - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,*
    - (iv) Aboriginal cultural heritage, practices and places,*
    - (v) cultural and built environment heritage, and*
  - (b) is satisfied that—*
    - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
    - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
    - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and*
  - (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.*

Comment: The bulk and scale of the built form is commensurate with the established built environment along The Drive and wider area. The proposed works do not require significant or unreasonable disturbance to the site and are not considered to increase the risk of coastal hazards for the subject property or adjoining land.

The subject site is not located within the foreshore area and will not result in any loss of public access.

The works will be carried out in accordance with the recommendations of the consulting Geotechnical and Structural Engineers, and stormwater runoff from the site will be suitably managed.

The proposed new works are largely contained within the proximity of the existing building. A generous area of soft landscaping is maintained, and the new works will not require the removal of any significant vegetation.

The proposed will reasonably maintain existing views to and from the foreshore area.

The proposal will not result in any overshadowing of the foreshore area.

### ***Division 5 General***

#### ***2.12 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.*

Comment: The application is supported by a Geotechnical Report to address the landslip hazard that affects the site. The proposed new works are not considered to increase the risk of coastal hazards for the subject property or adjoining land.

### **Remediation of Land**

Chapter 4 of SEPP (Resilience and Hazards) applies to all land and aims to provide for a state-wide planning approach to the remediation of contaminated land.

Clause 4.6(1)(a) of this policy requires the consent authority to consider whether land is contaminated. Given the history of residential use of the land, the site is not considered to be subject to contamination and further investigation is not required at this stage.

Overall, the proposed development is consistent with the relevant provisions of SEPP (Resilience and Hazards).

## **6.2 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004**

The proposal meets water, thermal and energy standards required by BASIX. A BASIX certificate has been submitted with the development application.

### 6.3 Warringah Local Environmental Plan 2011

The land is zoned R2 Low Density Residential under the provisions of the WLEP 2011.

Development for the purposes of a dwelling house and secondary dwelling is permissible with consent in this zone.



**Fig 19: Extract of Zoning Map of WLEP 2011**

The development of and use of the land for residential purposes is consistent with the zone objectives, which are noted as:

- *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 considered that the proposed development will be consistent with the desired future character of the surrounding locality for the following reasons:

- The proposal will be consistent with and complement the existing detached style housing within the locality. The proposed works are compatible with the scale and form of other new development in the vicinity and therefore compliments the locality.
- The setbacks are compatible with the existing surrounding development.
- The proposal does not have any significant impact on the existing landscaped area or long distance views. Suitable view sharing opportunities are maintained past the dwelling to the

east and north-east for the properties to the west and south of the site. The current soft landscaped area will be marginally increased through the removal of existing paved areas and decking in the rear yard and its replacement with soft landscaping.

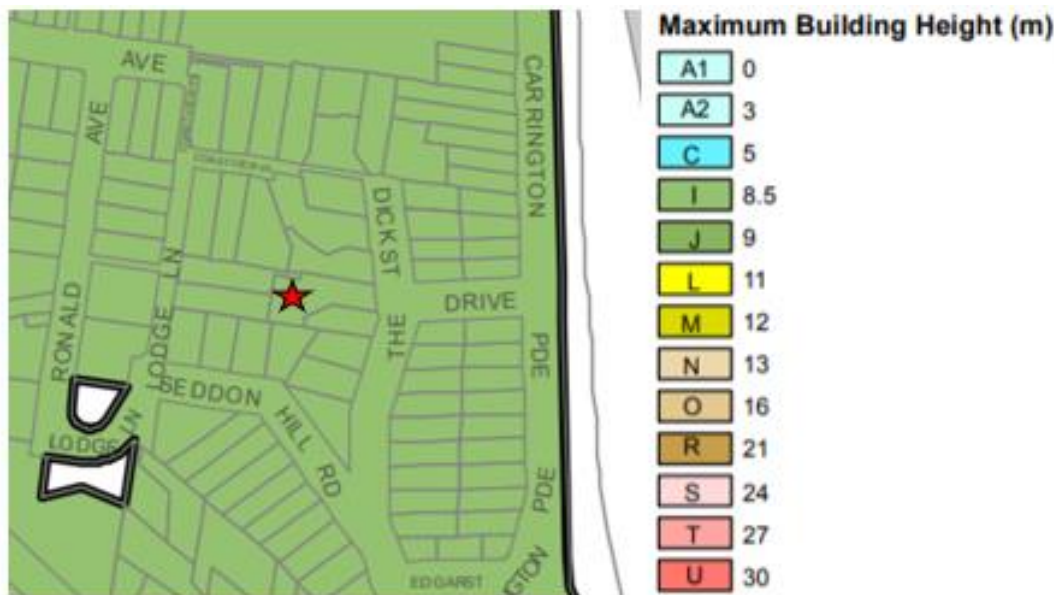
**Clause 4.3** provides controls relating to the height of buildings.

The dictionary supplement to the LEP notes building height to be:

***building height (or height of building)** means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.*

The building height limit for development in this portion of Freshwater is 8.5m. The proposed new works will provide for a maximum building height of 10.32m.

A written request under Clause 4.6 of WLEP 2011 is provided as an appendix to this statement.



**Fig 20: Extract of the Height of Buildings Map of WLEP 2011**

**Clause 5.4** relates to miscellaneous permissible uses.

Clause 5.4(9) stipulates that the floor area of a secondary dwelling is not to exceed 60m<sup>2</sup> or 11% of the total floor area of the principal dwelling. The proposed secondary dwelling has a gross floor area of 60m<sup>2</sup> and therefore complies with this control.

**Clause 6.2** relates to earthworks. Due to the significant slope of the site, the proposal will require excavation to accommodate the works, most notably the proposed garage.

The proposal has been designed to achieve the objectives of the clause with regard to ensuring earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses or features of the surrounding land.

All site works will be carried out in accordance with the recommendations of the consulting geotechnical and structural engineers, and therefore satisfy the provisions of this clause.

**Clause 6.4** relates to development on sloping land. The site is identified within Areas B & C on the Landslide Risk Map of WLEP 2011. Accordingly, a Geotechnical Report has been prepared by White Geotechnical Group, Project No J3225A, dated 8 June 2022.



**Fig 21: Extract of Warringah Local Environmental Plan 2011**

The works will be carried out in accordance with the recommendations of the consulting Geotechnical and Structural Engineers, and therefore satisfy the provisions of this clause.

There are no other clauses of the WLEP 2011 that are considered to be relevant to the proposed development. It is considered that the proposal achieves the requirements of the WLEP 2011.

## 6.4 Warringah Development Control Plan 2011

The relevant numerical and performance based controls under WDCP 2011 are discussed below:

Part B - Built Form Controls			
Standard	Required	Proposed	Compliance
B1 – Wall heights	<p>Max 7.2m</p> <p>The objectives of this control read as follows:</p> <ul style="list-style-type: none"> <li>• <i>To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.</i></li> <li>• <i>To ensure development is generally beneath the existing tree canopy level.</i></li> <li>• <i>To provide a reasonable sharing of views to and from public and private properties.</i></li> <li>• <i>To minimise the impact of development on adjoining or nearby properties.</i></li> <li>• <i>To ensure that development responds to site topography and to discourage excavation of the natural landform.</i></li> <li>• <i>To provide sufficient scope for innovative roof pitch and variation in roof design.</i></li> </ul>	<p>Max = 8.7m</p> <p>The northern elevation exceeds the prescribed wall height by a maximum 1.5m.</p> <p>The non-compliance is a direct response to the site's steep slope at the part of the site where the existing dwelling is located. The new dwelling is proposed in this location to minimise site disturbance and the need for additional excavation.</p> <p>The proposed development has stepped floor levels to follow the sloping topography of the site, with the upper floor also set well back from the northern side boundary to maximise view corridors for the properties to the west.</p> <p>The proposed flat roof form will complement the surrounding development and maintain consistency with the character of residential development in the locality.</p> <p>The south-eastern (angled) façade of the upper level sitting room also marginally exceeds the control with a maximum wall height of approximately 8.0m. This</p>	Yes – on merit

		<p>particular area of non-compliance does not attribute to impacts upon the amenity of adjoining properties and also arises due to the significant slope of the land. The majority of the southern side of the development is maintained well below the maximum wall height control.</p> <p>The proposal is in keeping with the objectives of this clause, and the breach of the wall height is therefore considered acceptable in this instance.</p>	
B2 – Number of storeys	No requirement identified on map	N/A	N/A
B3 – Side Boundary Envelope	<p>Building envelope 45 degrees from 5m.</p> <p>The objectives of the provision are as follows:</p> <ul style="list-style-type: none"> <li>• <i>To ensure that development does not become visually dominant by virtue of its height and bulk.</i></li> <li>• <i>To ensure adequate light, solar access and privacy by providing spatial separation between buildings.</i></li> <li>• <i>To ensure that development responds to the topography of the site.</i></li> </ul>	<p>Due to the significant and unfavourable topography of the site, the north-eastern corner of the Level 3 balcony and the south-eastern elevation of the Level 4 sitting room will extend beyond the prescribed envelope.</p> <p>Notwithstanding the non-compliance, the proposed built form and resultant variations are proportionate to the established built environment. The bulk and scale will not be visually dominant, as viewed from nearby private and/or public places.</p> <p>The variations will not unreasonably impact the solar access and privacy provided to adjoining properties, with sufficient separation provided to adjoining dwellings.</p>	Yes - on merit

		In light of the above, the proposed variations are considered reasonable and worthy of approval.	
B4 – Site Coverage	No requirement identified on map		N/A
B5 – Side Boundary setbacks	R2 zoned land 0.9m	All proposed side setbacks meet or exceed 0.9m.	Yes
B6 – Merit assessment of Side Boundary Setbacks	No requirement identified on map		N/A
B7 – Front Boundary Setbacks	<p>Minimum 6.5m</p> <p>The objectives of this control are as follows:</p> <ul style="list-style-type: none"> <li>• <i>To create a sense of openness.</i></li> <li>• <i>To maintain the visual continuity and pattern of buildings and landscape elements.</i></li> <li>• <i>To protect and enhance the visual quality of streetscapes and public spaces.</i></li> <li>• <i>To achieve reasonable view sharing.</i></li> </ul>	<p>Nil setback proposed.</p> <p>The proposal includes the construction of a new garage, entry foyer, and secondary dwelling within the 6.5m front setback.</p> <p>Notwithstanding, the proposal is considered acceptable on merit, in light of the established streetscape character along The Drive. Due to the constraints of the subject site associated with the slope of the land, it is not practicable to provide a 6.5m setback to the required parking structures. The proposed works sited in the setback area will continue to maintain a visual continuity and pattern of buildings along The Drive, with a positive contribution to the streetscape.</p> <p>It is noted that the existing garage is located with a nil setback to the eastern boundary, therefore, the proposed works, particularly the garage will be situated</p>	Yes - on merit

		<p>within largely the existing building footprint.</p> <p>The works have been designed and located, so as to achieve a reasonable level of view sharing from adjoining private properties.</p> <p>The site will maintain a sense of openness relative to the other properties along The Drive, with the proposed secondary dwelling setback at a greater distance from the front setback, with landscaping to soften the visual impact of the proposed built form.</p> <p>In consideration of the above, the proposal is in keeping with the desired outcomes of this clause and is therefore considered acceptable on merit.</p>	
B8 – Merit assessment of front boundary setbacks	No requirement identified on map		N/A
B9 – Rear Boundary Setbacks	<p>Min 6m rear setback</p> <p>Swimming pools may encroach within the 6m rear building line setback. However, they must not exceed 50% of the rear setback area.</p>	<p>Proposed = 6m – 15.6m</p> <p>The proposed swimming pool does not exceed 50% of the rear setback area.</p>	Yes
B10 – Merit Assessment of rear boundary setbacks	No requirement identified on map		N/A
B11 – Foreshore Building Setback	No requirement identified on map		N/A
B12 – National Parks Setback	No requirement identified on map		N/A
B13 – Coastal Cliffs Setback	No requirement identified on map		N/A

B14 – Main Roads Setback	No requirement identified on map		N/A
B15 – Minimum Floor to Ceiling Height	No requirement identified on map		N/A
<b>Part C – Siting Factors</b>			
C2 – Traffic, Access and Safety	Vehicular crossing to be provided in accordance with Council's Vehicle Crossing Policy	The existing driveway crossing and layback location will be upgraded to provide for compliant vehicle access into the new garage.	Yes
C3 – Parking Facilities	Garages not to visually dominate façade Parking to be in accordance with AS/NZS 2890.1	The proposal includes a new garage providing off-street parking for three (3) vehicles. The parking has been designed in accordance with AS/NZS 2890.1.	Yes
C4 – Stormwater	Hydraulic Design to be provided in accordance with Council's Stormwater Drainage Design Guidelines for Minor Developments and Minor Works Specification	A Stormwater Management Plan has been prepared by Taylor Consulting which provides for a 3000L rainwater tank for reuse of stormwater, with the overflow discharged into the kerb and gutter on The Drive at the front of the site.	Yes
C5 – Erosion and Sedimentation	Soil and Water Management required	Suitable sediment and erosion control measures to be provided during construction.	Yes
C6 – Building over or adjacent to Constructed Council Drainage Easements	N/A		N/A
C7 – Excavation and Landfill	Site stability to be maintained	All site and civil works will be carried out under the direction of the consulting Geotechnical and Structural engineers. Provided to	Yes
C8 – Demolition and Construction	Waste management plan required	Waste management measures to be employed, in accordance with the supporting WMP.	Yes
C9 – Waste Management	Waste storage area to be provided	Bins storage available on the southern side of the dwelling.	Yes

Part D – Design			
D1 – Landscaped Open Space and Bushland	Min 40% Landscaped Area to be maintained	The proposal will provide for a total landscaped area of 415.29m <sup>2</sup> or 42.1% across the site.	Yes
D2 – Private Open Space	Dwelling houses with three or more bedrooms Min 60m <sup>2</sup> with min dimension 5m	The proposal will provide a substantial area of private open space, which includes a new patio area and swimming pool, which will all be directly accessible from the dwelling and will maintain good access to the northern sun.	Yes
D3 – Noise	Mechanical noise is to be attenuated to maintain adjoining unit amenity. Compliance with NSW Industrial Noise Policy Requirements	The plant equipment associated with the swimming pool and inclinator will be acoustically treated to minimize acoustic impacts.	Yes
D4 – Electromagnetic Radiation	N/A to proposed development		N/A
D5 – Orientation and Energy Efficiency	Dwellings to be orientated to receive northern sun Appropriate construction to enhance thermal properties and ventilation/natural cooling Compliance with SEPP (BASIX) requirements	The site enjoys an east-west aspect and good access to northern sun to the yard area.	Yes
D6 – Access to sunlight	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	The site is accompanied by shadow diagrams which demonstrate the impact of the proposal on solar access.  The proposal will result in additional overshadowing of the adjoining dwelling to the south at 1 Seddon Hill Road. However, this impact is associated with a single storey portion of the	Yes

	between 9am and 3pm on June 21.	<p>development that is sited in excess of 3m from the common side boundary.</p> <p>1 Seddon Hill Road benefits from a recent development consent that will be achieve compliant levels of solar access during midwinter, despite the additional overshadowing arising from the proposed development.</p> <p>Due to the site constraints, most notably the orientation of the lot, which precludes northerly orientation, the proposed solar access arrangements are considered acceptable on merit.</p>	
D7 – Views	View sharing to be maintained	<p>The proposed development extends across a portion of the site that is currently free of any development, to which neighbouring properties currently enjoy unobstructed views towards the ocean. Furthermore, the application seeks to increase the height of the development compared to that which currently exists, which will also impact upon views currently obtained across the roof of the existing dwelling.</p> <p>The impact to views currently enjoyed is demonstrated and considered in the View Impact Assessment prepared by Urbaine Design Group provided to support the application, which concludes that the resultant impacts are not detrimental</p>	Yes

		upon the amenity of adjoining dwellings.	
D8 – Privacy	This clause specifies that development is not to cause unreasonable overlooking of habitable rooms and principle private open space of adjoining properties	The proposed new works have been designed to duly consider the privacy of adjoining properties as well as to within the subject site. The provision of shutters along the northern and southern facades will ensure overlooking of adjoining properties is minimised.	Yes
D9 – Building Bulk	This clause requires buildings to have a visual bulk and architectural scale that is consistent with structures on nearby and adjoining properties and not to visually dominate the street or surrounding spaces	The existing surrounding development comprises a mix of two and three storey dwellings. The form of the proposed new works will maintain a height and scale that complements the prevailing scale of the surrounding development.	Yes
D10 – Building Colours and materials		The new works will utilise recessive colours and finishes to match the surrounding area and existing dwelling.	Yes
D11 – Roofs	The LEP requires that roofs should not dominate the local skyline.	The proposed new dwelling comprises flat roof forms, to minimise the visual impact of the development and any associated impacts upon views.	Yes
D12 – Glare and Reflection	Glare impacts from artificial illumination minimised. Reflective building materials to be minimised	No significant glare impacts will result from proposed new works.	Yes
D13 – Front Fences and Front Walls	Front fences to be generally to a maximum of 1200mm, of an open style to complement the streetscape and not to encroach onto street.	No fencing proposed.	N/A

D14 – Site Facilities	Garbage storage areas and mailboxes to have minimal visual impact to the street Landscaping to be provided to reduce the view of the site facilities	Garbage storage areas and mail box will be provided.	Yes
D15 – Side and Rear Fences	Side and rear fences to be maximum 1.8m and have regard for Dividing Fences Act 1991	Side fences unchanged.	Yes
D16 – Swimming Pools and Spa Pools	Pool not to be located in front yard or where site has two frontages, pool not to be located in primary frontage. Siting to have regard for neighbouring trees.	Swimming pool to be located in the rear of the site.	Yes
D17 – Tennis Courts			N/A
D18 – Accessibility			N/A
D19 – Site Consolidation in the R3 and IN1 Zone			N/A
D20 – Safety and Security	Buildings to enhance the security of the community.  Buildings are to provide for casual surveillance of the street.	The proposed secondary dwelling will enhance casual surveillance of the street, noting that surveillance from the primary dwelling is limited due to the steep terrain of the land.	Yes
D21 – Provision and Location of Utility Services	Utility services to be provided	Normal utility services are available to the site.	Yes
D22 – Conservation of Energy and Water	Compliance with SEPP BASIX	A BASIX Certificate has been provided to support the proposed development.	Yes
D23 – Signs			N/A

Part E – The Natural Environment			
E1 – Private Property Tree Management	Arboricultural report to be provided to support development where impacts to trees are presented	The proposal is supported by a detailed Arboricultural Impact Assessment, prepared by Peake Arboriculture, dated 26 May 2022. The report assesses five (5) trees of varying significance within the subject site and on adjoining properties. The report concludes that all trees can be safely retained, subject to suitable measures being undertaken.	Yes
E2 – Prescribed Vegetation	Not identified on map		N/A
E3 – Threatened species, populations, ecological communities	Not identified on map		N/A
E4 – Wildlife Corridors	Not identified on map		N/A
E5 – Native Vegetation	Not identified on map		N/A
E6 – Retaining unique environmental features	Not identified on map	No significant features within site	Yes
E7 – Development on land adjoining public open space	Not identified on map		N/A
E8 – Waterways and Riparian Lands	Not identified on map		N/A
E9 – Coastline Hazard	Not identified on map		N/A
E10 – Landslip Risk	Identified on map as Area B.	The application is supported by a Geotechnical Report has been prepared by White Geotechnical Group, Project No J3225A, dated 8 June 2022.	Yes
E11 – Flood Prone Land	Not identified on map		N/A

**7.0 Matters for Consideration under Section 4.15 of The Environmental Planning and Assessment Act, 1979**

**7.1 Any environmental planning instrument**

The proposal is subject to the provisions of WLEP 2011. It is considered that the provisions of this environmental planning instrument has been satisfactorily addressed within this report and that the proposal achieves compliance with its objectives.

The proposal has also considered all relevant SEPPs, and Council can be satisfied that the proposal is consistent with these policies.

**7.2 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 Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and**

It is not considered that there are any draft environmental planning instruments applying to the site.

**7.3 Any development control plan**

The development has been designed to comply with the requirements of WDCP 2011.

In accordance with the provisions of section 4.15(3A) of the EP&A Act, we request that Council applies considered flexibility where the application seeks variations to numerical development controls in the DCP as justified in this report. In particular, we consider that the variation to the front setback, building envelope and wall height controls to be a reasonable alternative solution, noting the significant constraint associated with the slope of the land and in circumstances where the proposal is otherwise consistent with the objectives of these controls.

It is considered that the proposed design respects the desired character of the locality, in that it reinforces the existing residential character of the area and is compatible with the existing uses in the vicinity of the site.

**7.4 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**

No matters of relevance are raised in regard to the proposed development.

**7.5 The regulations (to the extent that they prescribe matters for the purposes of this paragraph)**

No matters of relevance are raised in regard to the proposed development.

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

It is considered that the proposal has been located and designed to appropriately minimise impacts on the amenity of adjoining properties, resulting in a development that is compatible with and will complement the character of the area.

## **7.7 The suitability of the site for the development**

The site is considered suitable for the proposed development.

The proposal will provide for the partial demolition of the existing structures and construction of a new dwelling which includes the retention of substantial portions of the existing dwelling, together with the construction of a new garage with secondary dwelling over, swimming pool and landscaping.

It is suggested that the proposal will not have a detrimental impact on the amenity of the adjoining properties or any impact on the streetscape.

## **7.8 Submissions made in accordance with this Act or the regulations**

This is matter for Council in the consideration of this proposal.

## **7.9 The public interest**

The proposal will not impact upon the environment; the character of the locality and will mitigate any unreasonable visual impacts on the amenity of adjoining properties and is therefore considered to be within the public interest.

## **8.0 Conclusion**

The proposal provides for the partial demolition of the existing dwelling and construction of new dwelling including the retention of substantial portions of the existing dwelling and the inclusion of a detached secondary dwelling over a garage, together with a swimming pool and landscaping, which will not have a detrimental impact on the adjoining properties or the locality.

As the proposed development will not have any significant impact on the environment, scenic quality of the area or the amenity of the adjoining allotments, the issue of Development Consent under the delegation of Council is requested.

## **VAUGHAN MILLIGAN**

Town Planner

Grad. Dip. Urban and Regional Planning (UNE)

Appendix: Written Request – Clause 4.6 – Building Height