gsa planning

STATEMENT OF ENVIRONMENTAL EFFECTS

Proposed demolition of an existing dwelling and construction of a new dwelling house at

No. 38 The Drive, Freshwater

Prepared for:

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PIA Planning Institute Australia

CPP CERTIFIED PRACTISING PLANNER

Acknowledgement of Country
We respect and honour Aboriginal and Torres Strait Islander Elders past, present and emerging. We acknowledge the stories, traditions and living cultures of Aboriginal and Torres Strait Islander peoples. We would like to recognise their ongoing connection to land, water and community.

This report has been prepared and reviewed in accordance with our quality control system. The report is a preliminary draft unless it is signed below.

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Document Issue	Date	Details
A	11 August 2025	Initial Review
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Date:	August 2025	
For and on behalf of	**GSA Planning** 95 Paddington Street PADDINGTON NSW 2021	

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Abbreviation	Abbreviation Meaning
ADG	Apartment Design Guide
AHD	Australian Height Datum
ANEF	Australian Noise Exposure Forecast
AS	Australian Standard
ASS	Acid Sulfate Soils
BCA	Building Code of Australia
CBD	Central Business District
CC	Construction Certificate
CIV	Capital Investment Value
CMP	Construction Management Plan/Conservation Management Plan
Council	the Council
CPTED	Crime Prevention Through Environmental Design
CRZ	Critical Root Zone
DA	Development Application
DCP	Development Control Plan
DP	Deposited Plan
DPIE	Department of Planning, Industry and Environment
EIS	Environmental Impact Statement
EPA Act	Environmental Planning and Assessment Act 1979
EPA Reg	Environmental Planning and Assessment Regulations 2021
EUR	Existing Use Rights
FFL	Finished Floor Level
FSR	Floor Space Ratio
GFA	Gross Floor Area
GCC	Greater Cities Commission (formerly GSC : Greater Sydney Commission)
HCA	Heritage Conservation Area
HIA/HIS	Heritage Impact Assessment/Heritage Impact Statement
LEP	Local Environmental Plan
LGA	Local Government Area
MHWM	Mean High Water Mark
NCC	National Construction Code
NSW	New South Wales
NSWLEC	NSW Land and Environment Court
OC	Occupation Certificate
OSD	On-Site Detention
PCA	Principal Certifying Authority
PoM	Plan of Management
POS	Private Open Space
PP	Planning Proposal
REF	Review of Environmental Factors
RFB	Residential Flat Building
RL	Reduced Level
RMS	Roads and Maritime Services (see TfNSW)
SEE	Statement of Environmental Effects
SEPP	State Environmental Planning Policy
SREP	Sydney Regional Environmental Plan
SP	Strata Plan
SWMP	Stormwater Management Plan
TfNSW	Transport for New South Wales
TPZ	Tree Protection Zone
VENM	Virgin Excavated Natural Material
WMP	Waste Management Plan
WSUD	Water Sensitive Urban Design
ZFDTG	Zero Fort Denison Tide Gauge (0.925 below AHD)

1.0 INTRODUCTION

This Statement of Environmental Effects (SEE) has been prepared for by George Karavanas Planning Pty Ltd – (hereafter referred to as GSA Planning). GSA Planning has expertise in Urban Design, Environmental & Traffic Planning.

This SEE is to accompany a Development Application to Northern Beaches Council for the demolition of an existing dwelling and construction of a new dwelling house at No. 38 The Drive, Freshwater.

The proposed development will be of a similar scale and architectural character to the emerging pattern of surrounding developments and will deliver high quality accommodation to the area. Importantly, the amenity of neighbours and surrounding public space is maintained to a compliant level by the proposed development.

In our opinion, the proposed development satisfies the relevant zone objectives in the Warringah Local Environmental Plan (LEP) 2011 and the controls of the Warringah Development Control Plan (DCP) 2011. The proposal also complies with the amenity provisions in the DCP.

Whilst the proposal has a greater height than the development standard of the LEP, *a* Clause 4.6 Application to Vary a Development Standard has been prepared (separately submitted). In our opinion, the report is well founded.

This document is divided into six sections. Section 2 contains a site analysis; Section 3 provides details of the proposal; Sections 4 and 5 contains the detailed assessment of the application in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979 (EPA Act); and Section 6 concludes the report.

2.0 SITE ANALYSIS

This section contains a description of the following: The Locality; Site Description; Existing Built Form and Landscaping; and Existing Character and Context.

2.1 The Locality

The subject site is located approximately 13km northeast of the Sydney CBD, 2.3km from the Manly town centre and is located within the Local Government Area (LGA) of Northern Beaches (see **Figure 1**).

Figure 1: Location Plan

2.2 Site Description

The subject site is located on the western side of The Drive, and is known as No. 38 The Drive. Freshwater, described as Lot 12 in DP829988.

The site is an irregular shaped parcel of land, with a northern boundary of 51.01 metres, an eastern boundary of 20.255 metres, a southern boundary of 57.245 metres, and a western boundary of 27.44 metres, providing a total site area of 985.7m^2 (see **Figure 2** and Survey Plan separately submitted).

The site is very steep, with a west-to-east fall of 26.22 metres (RL 52.32 to 26.10 AHD) along the middle of the site and another 2.24 metres (RL 28.34 to 26.10AHD) along The Drive.

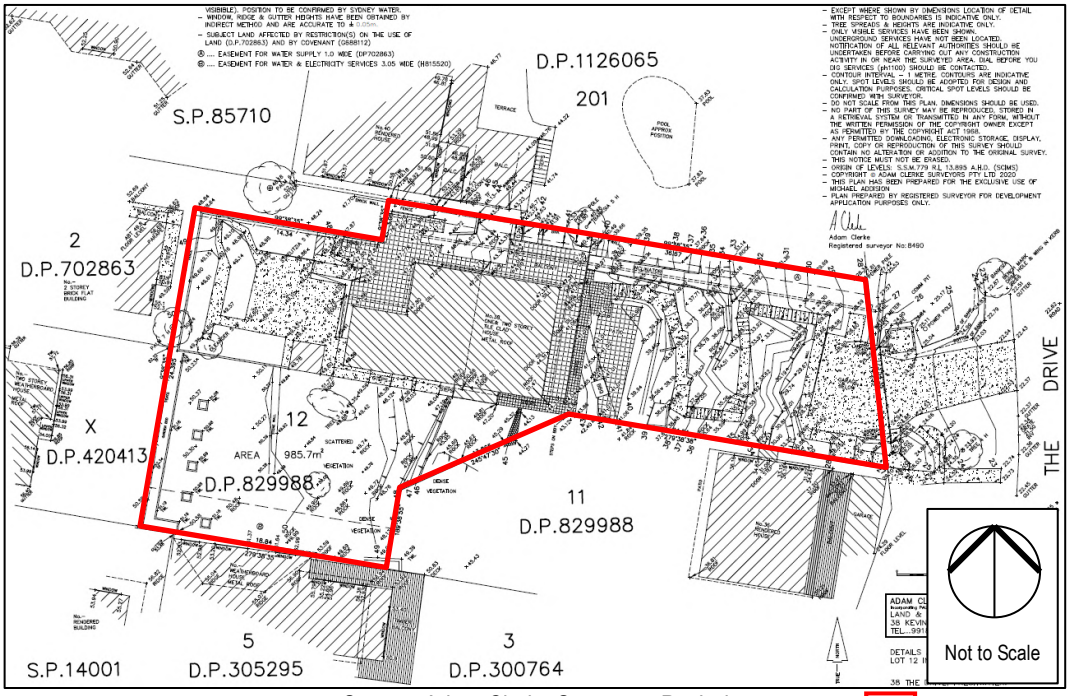


Figure 2: Survey Plan

2.3 Existing Built Form and Landscaping

The site is occupied by a part one and two storey dwelling with an additional lower-level storage space. The building has a pitched metal roof and a detached double garage on the front boundary above the street level, accessible from The Drive (see **Photograph 1**). The dwelling is substantially set back behind the garage and accessible via an inclinator along the northern side, as well as external stairs within the front terraced garden (see **Photograph 2**). Due to the sloping nature of the site, when viewed from The Drive, the built form appears as three storeys, significantly elevated above the garage. When viewed from the rear, it appears as single storey, with a small, detached metal shed.

The site has a landscaped area located on the steep topography of the site, spanning between the garage and main dwelling. This landscaping consists of a winding paved path and landings as well as plantings. The rear setback comprises a large turf area on the southwestern section of the site (see **Photograph 3**).

Photograph 1: The subject site, as viewed from the street

Photograph 2: The subject site, as viewed from the rear

Photograph 3: Rear setback landscaped area, as viewed from the southwestern most point

2.4 Existing Character and Context

The subject site is located in the suburb of Freshwater. The surrounding area is characterised by a mix of residential dwelling types and commercial uses. Along The Drive, development is characterised by the steep topography on the western side of the road. Dwellings on the high side of the street typically have a garage accessible from the street and the main living spaces raised further up the site. Surrounding sites primarily comprise of flat roof designs on the high side of the street and pitched roof designs on the low side. Given the sloping nature of the area, landscaping primarily consists of dense, non-trafficable planting, with minimal turfed lawns.

Development to the North

To the north is No. 6 Coastview Place, a lot with a primary dwelling accessed from Coastview Place and a secondary dwelling to its frontage on The Drive. The secondary dwelling is single storey, raised above street level and accessible by a path connecting to the primary dwelling as well as a path connecting to The Drive/Dick Street (see **Photograph 4**).

Photograph 4: No. 6 Coastview Place, as viewed from The Drive/Dick Street

Development to the East

To the east is No. 1 Dick Street, a part two to three storey rendered dwelling with a curved and flat roof. The dwelling comprises a basement garage, accessible from The Drive. Due to the sloping nature of the site, the dwelling appears as two stories when viewed from The Drive/Dick Street and three storeys when viewed from the east (see **Photograph 5**). Also to the east is No. 27 The Drive, a part two and three storey rendered dwelling with a roof terrace. The dwelling comprises garage access from The Drive. Due to the sloping nature of the site, the dwelling appears as two stories when viewed from The Drive and three stories when viewed from the rear (see **Photograph 6**).

Photograph 5: No. 1 Dick Street, as viewed from The Drive

Photograph 6: No. 27 The Drive, as viewed from The Drive

Development to the South

To the south is No. 36 The Drive, a three storey rendered dwelling on top of garaged parking. Due to the sloping nature of the high side of the Drive, the dwelling appears as four storeys (including garage) when viewed from the street and as single storey when viewed from the rear (see **Photograph 7**). There are CDC approved plans on the site for the construction of a single storey secondary dwelling in the rear setback (CDC23/3038). Further to the south is No. 34 The Drive, a multi storey dwelling with a flat roof. The site features a double garage with a mezzanine level in the front setback, accessible from The Drive. The main living area is significantly elevated from the street level and is accessed by an inclinator on the southern boundary (see **Photograph 8**).

Photograph 7: No. 36 The Drive, as viewed from The Drive

Photograph 8: No. 36 The Drive, as viewed from The Drive

Development to the West

To the west is No. 9 Lodge Lane, a two storey contemporary dwelling with a flat roof. The dwelling comprises landscaping and grass turf throughout the site. The site features a large front setback with a double garage on the front boundary (see **Photograph 9**). Also to the west is No. 11 Lodge Lane, a three storey brick residential flat building with a flat roof (see **Photograph 10**).

Photograph 9: No. 9 Lodge Lane, as viewed from Lodge Lane

Photograph 10: No. 11 Lodge Lane, as viewed from Lodge Lane

2.5 Site Constraints

2.5.1 Landslide Risk Land

The subject site is listed as Landslip Risk Land (see **Figure 3**). The proposal is accompanied by a Geotechnical Assessment Report prepared by Crozier Geotechnical Consultants (separately submitted).

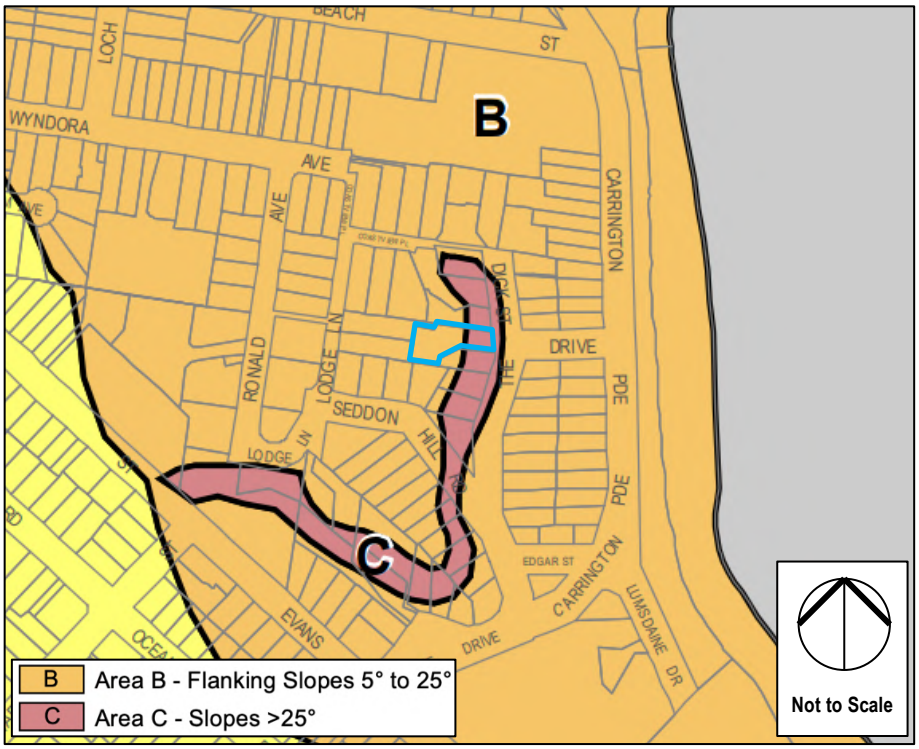


Figure 3: LEP Landslip Prone Land Map **Subject Site**

3.0 THE PROPOSAL

This section will describe the following: The Background to the Proposal; Built Form and Land Use; Height; Landscaping, Private Open Space and Balconies; and Access and Parking.

3.1 Background to the Proposal

On **28 April 2021**, a Development Application (DA 2021/0472) was submitted with Northern Beaches Council for demolition works and the construction of a new dwelling, secondary dwelling and swimming pool at No. 38 The Drive, Freshwater. On **27 September 2021**, the application was withdrawn.

On **19 July 2022**, a Development Application (DA 2022/1128) was submitted with Northern Beaches Council for the partial demolition of the existing dwelling and construction of a new dwelling including retention of substantial portions of the existing dwelling and a detached secondary dwelling over a garage together with a swimming pool at No. 38 The Drive, Freshwater. On **11 May 2023**, the application was withdrawn.

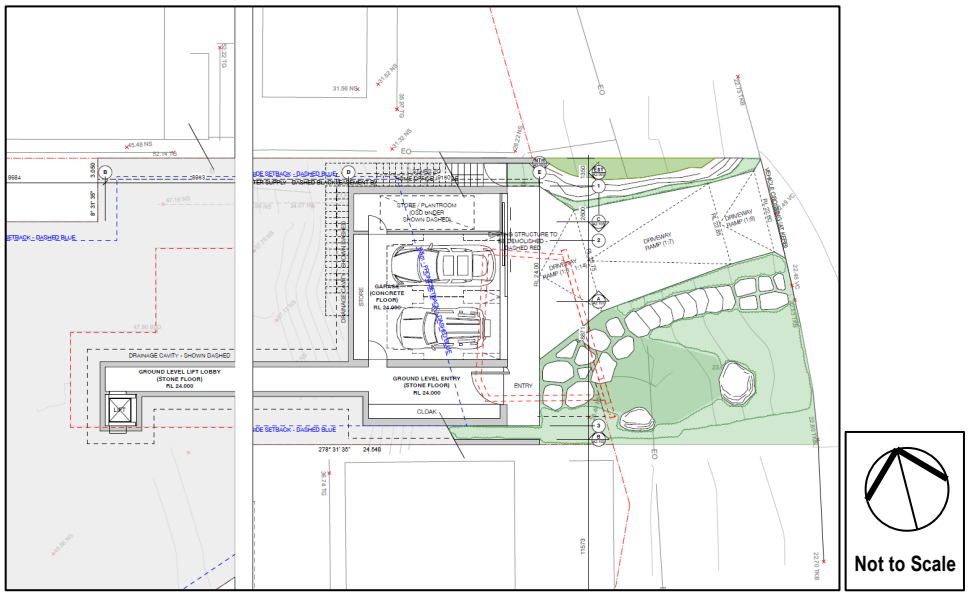
3.2 Built Form and Land Use

It is proposed to demolish the existing building and construct a new stepped two storey dwelling house with garage parking. The proposed dwelling comprises five bedrooms and two car spaces accessible by the driveway from The Drive. The dwelling will appear as two storeys at all points when viewed from the streetscape.

A floor by floor description is provided below. Further details of the proposed development are contained in the architectural drawings, separately submitted.

Ground Floor Level

The Ground Floor Level is at RL 24.0 AHD and is accessed by a driveway from The Drive. This level comprises a double garage, a storage/plant room as well as a pedestrian entry leading to the centrally located lift. Cloak storage will be located at the pedestrian entry. A stepping stone pathway through new landscaping will lead to the pedestrian entry (see **Figure 4**).

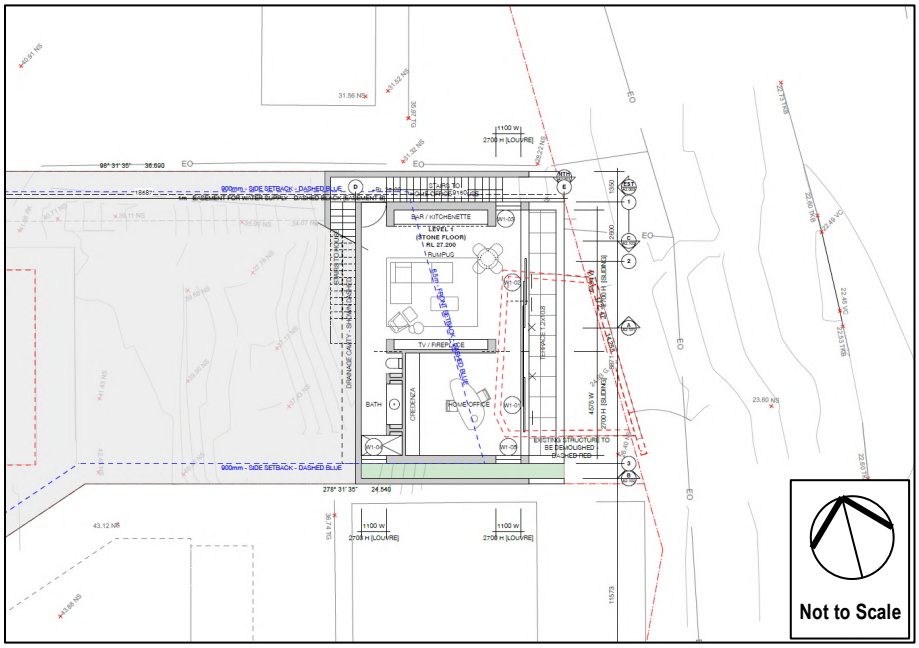


Source: Tobias Partners

Figure 4: Ground Floor Plan

First Floor Level

The First Floor Level is at RL 27.2 AHD. This level comprises a rumpus room, bathroom, kitchenette and home office. A street facing balcony is along the width of the level. This level will be accessed by an external staircase from the Ground Floor Level (see **Figure 5**).

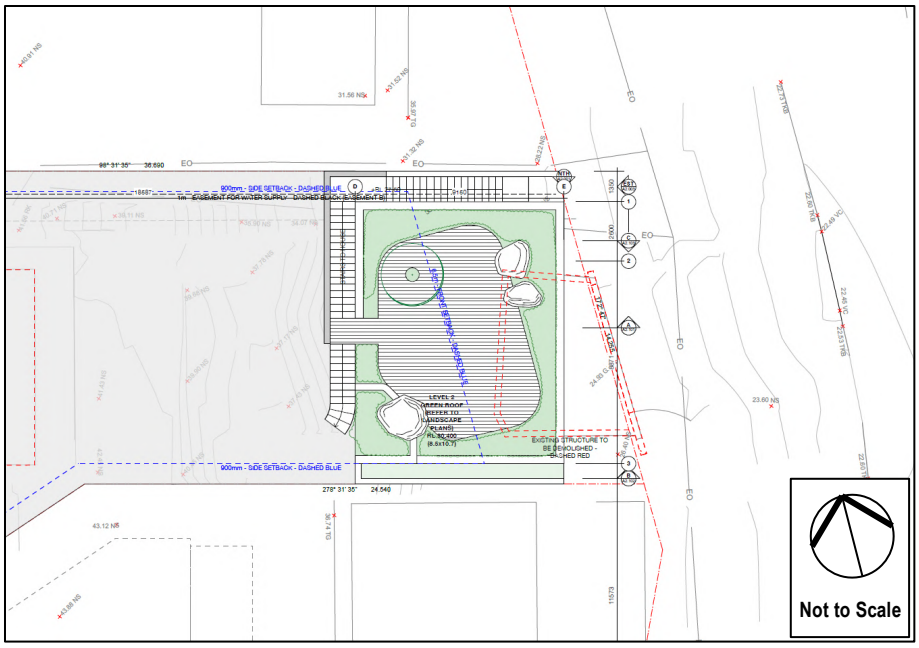


Source: Tobias Partners

Figure 5: First Floor Plan

Second Floor Level

The Second Floor Level is at RL 30.4 AHD. This level comprises a terrace area with perimeter landscaping and is accessed by an external staircase (see **Figure 6**).

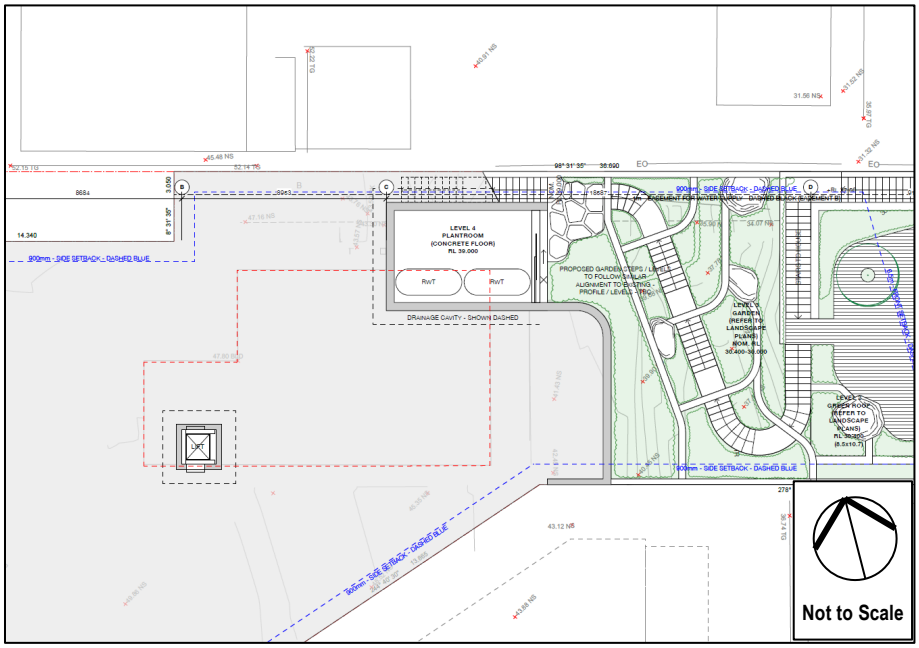


Source: Tobias Partners

Figure 6: Second Floor Plan

Third and Fourth Floor Levels

The Third and Fourth Floor Levels are at RL 34.7 and 39.0 AHD respectively. These levels predominantly comprises the pathway from the street level to the main house. Landscape is featured along the length of the steep topography. A plantroom is located towards the top of the path (see **Figure 7**).

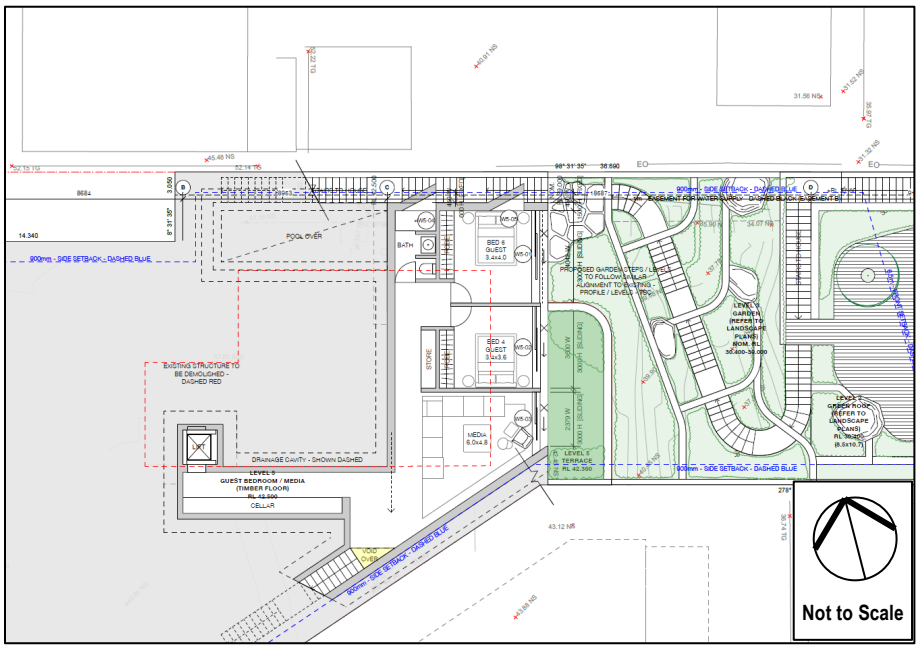


Source: Tobias Partners

Figure 7: Third and Fourth Floor Plan

Fifth Floor Level

The Fifth Floor Level is at RL 42.5 AHD. This level comprises two bedrooms, a bathroom and a media room. This level is accessed by the lift servicing the dwelling as well as stairs from the level above (see **Figure 8**).

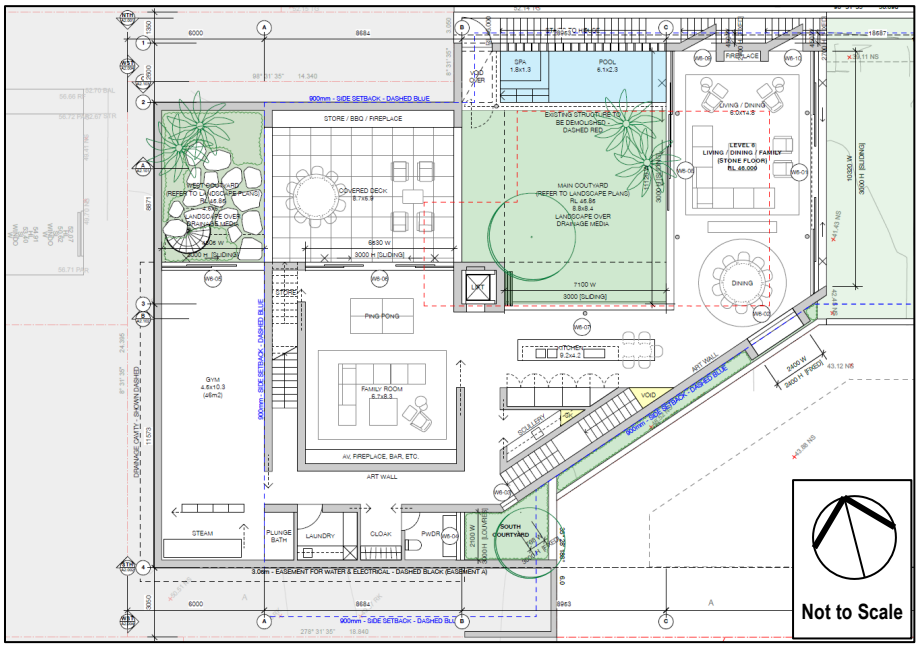


Source: Tobias Partners

Figure 8: Fifth Floor Plan

Sixth Floor Level

The Sixth Floor Level is at RL 46.0 AHD. This level comprises a kitchen, dining room, living room, scullery, family room, powder room, cloak room, plunge bath, steam room and gym. A covered deck is accessible from the family room, and two courtyards are also proposed. A pool is located off the main courtyard, near the building entrance (see **Figure 9**).

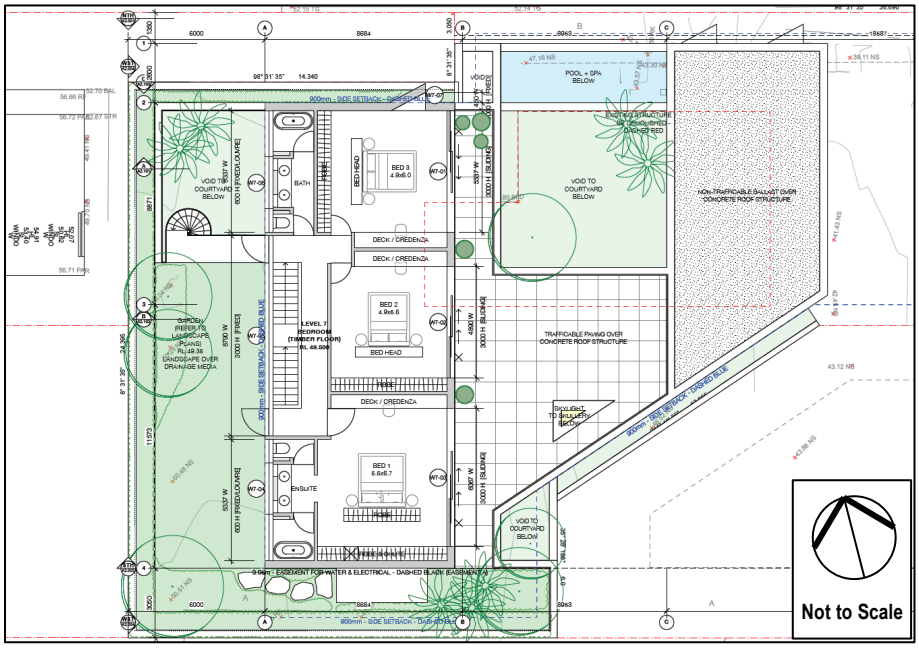


Source: Tobias Partners

Figure 9: Sixth Floor Plan

Seventh Floor Level

The Seventh Floor Level is at RL 49.5 AHD. This level comprises three bedrooms, two bathrooms, a rear garden and front facing terrace, accessible from all bedrooms. The forward portion of the roof in front of the terrace will be non-trafficable (see **Figure 10**).

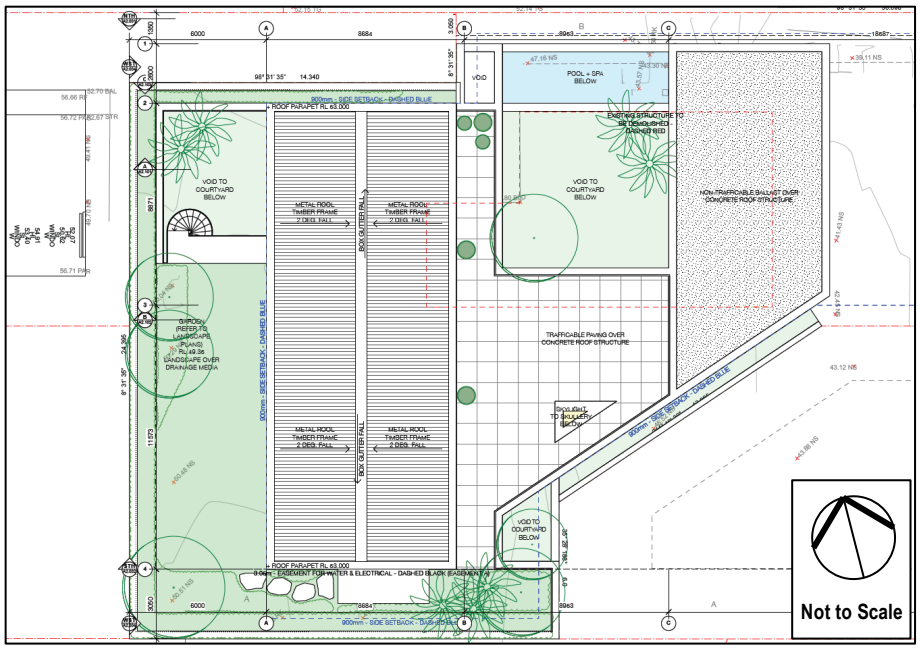


Source: Tobias Partners

Figure 10: Seventh Floor Plan

Roof Level

The Roof Level is at RL 53.0 AHD. The roof will comprise a slightly pitched butterfly design (see **Figure 11**).

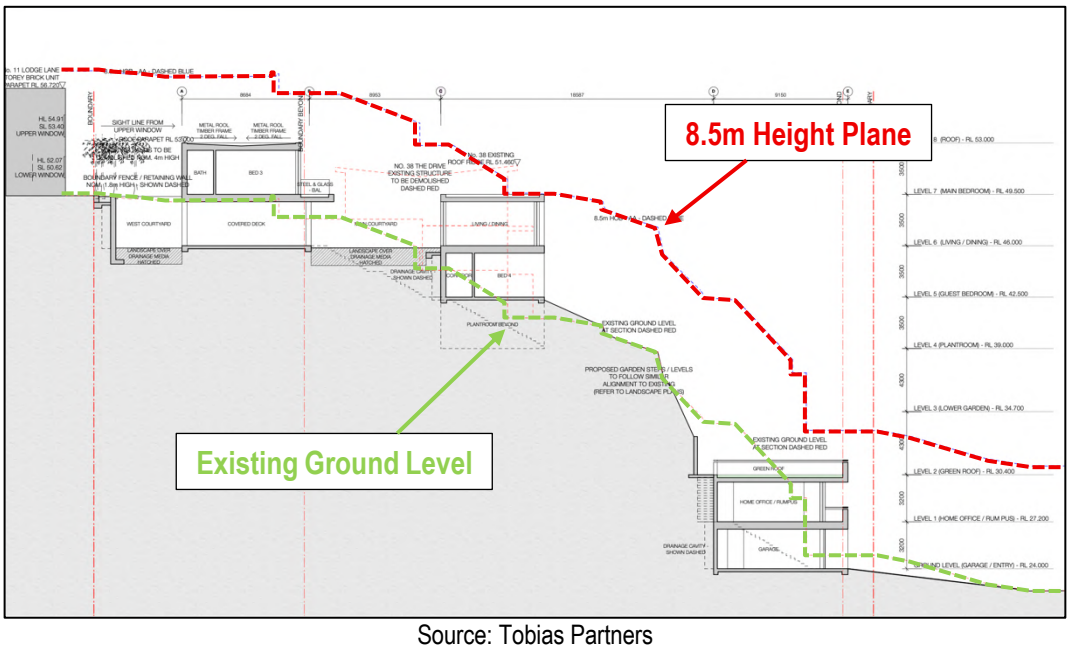


Source: Tobias Partners

Figure 11: Roof Plan

3.3 Height

The proposed stepped two storey dwelling house will have a maximum building height of 9.03m (see **Figure 12**). The maximum height is measured from the non-trafficable roof at RL 49.5 AHD to the existing ground level immediately below.

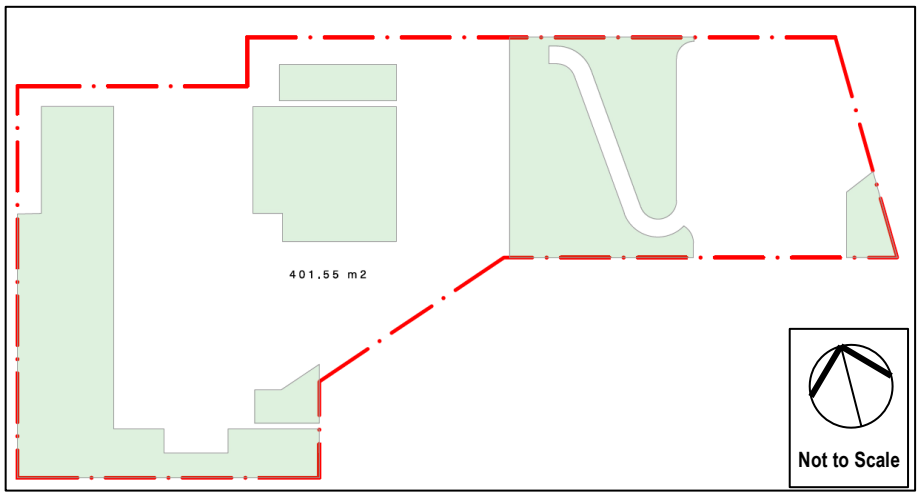


Source: Tobias Partners

Figure 12: Long Section

3.4 Landscaping, Private Open Space and Balconies

The proposed development will provide 401.55m^2 of landscaping throughout the site. These plantings include multiple native trees, shrubs and ground covers (see **Figure 13**).



Source: Studio Botanica

Figure 13: Landscape Plan

Further details of the proposed landscaping, species and design intent are in the Landscape Plan, prepared by Studio Botanica (separately submitted).

Balconies and terraces are proposed on the First, Second and Seventh Floor Levels. On the First Floor, a street facing balcony is accessible from the office and rumpus room. The Second Floor will comprise a terrace on top of the forward structure, featuring perimeter planting. On the Seventh Floor level, a terrace is proposed and will be accessible from each of the three bedrooms on that level. Additional courtyards are accessible from habitable areas.

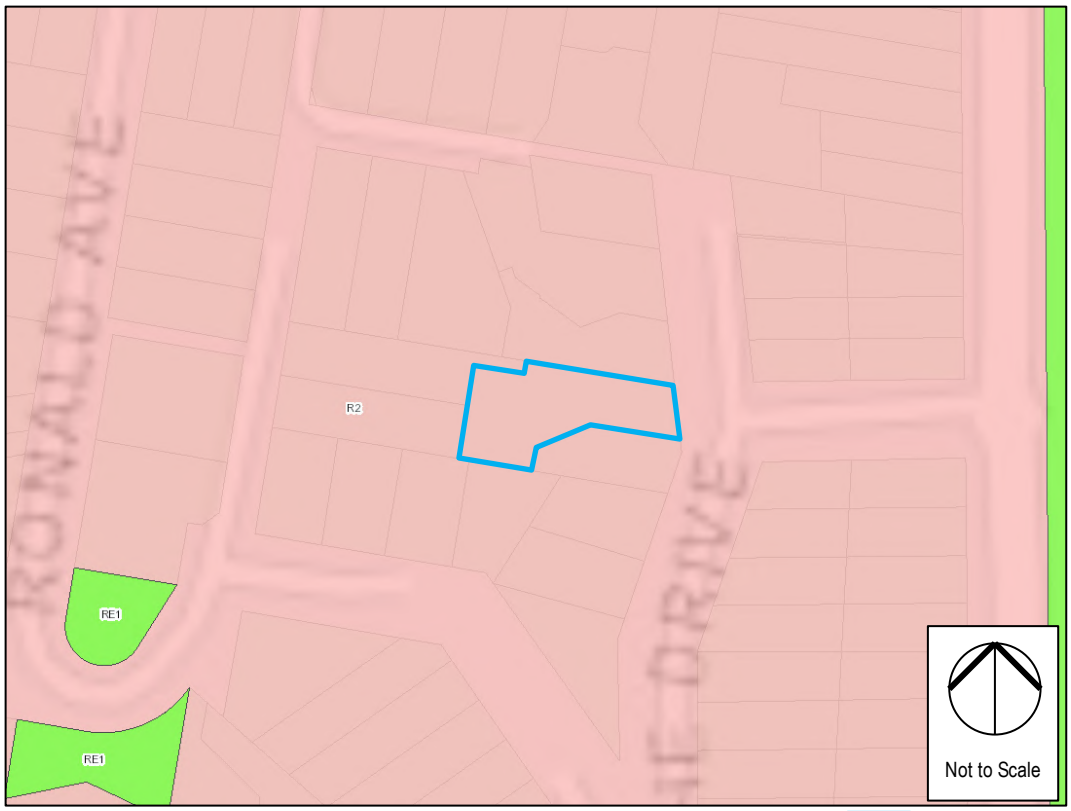
4.0 PLANNING CONTROLS

Pursuant to Section 4.15 of the EPA Act, this section assesses compliance with the planning instruments applicable to the site in accordance with the relevant matters for consideration. The relevant planning instruments include:

- Warringah Local Environmental Plan (LEP) 2011;
- State Environmental Planning Policy (SEPP) (Sustainable Buildings) 2022;
- State Environmental Planning Policy (SEPP) (Resilience and Hazards) 2021; and
- Warringah Development Control Plan (DCP) 2011.

4.1 Warringah Local Environmental Plan (LEP) 2011

The subject site is zoned R2 Low Residential under the LEP, which commenced operation on 9 December 2011 (see **Figure 14**). The residential dwelling is permissible with development consent.



Source: NSW eSpatial Viewer

Figure 14: LEP Zoning Plan

4.1.1 Objectives

The LEP Land Use Table contains the objectives for the R2 Low Density Residential Zone. The relevant objectives and our responses are as follows:

Objective: *To provide for the housing needs of the community within a low density residential environment.*
Response: The proposal is for a dwelling house which will provide low density housing to meet the needs of the community.

Objective: *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
Response: No other land uses proposed.

Objective: *To ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.*

Response: The proposal will feature architecturally designed landscaping which will complement the existing landscape setting of the surrounding area.

Accordingly, in our opinion, the proposal satisfies the relevant objectives of the LEP.

4.1.2 LEP Compliance

A summary of our assessment of the proposed development against the LEP is following (see **Table 1**).

TABLE 1: PROJECT COMPLIANCE – WARRINGAH LEP 2011

Site Area: 985.8m^2			
Development Standard	**Requirement**	**Proposal**	**Complies**
Building Height (Max)	8.5m	9.03m	NO (see Section 4.1.3)
LEP Provisions			**Complies / Comments**
Permissibility		R2 Low Density Residential	Proposal is permissible within the zone
Heritage Item		NO	N/A
Conservation Area			
Within the vicinity of Heritage Item			
Acid Sulfate Soils		Class 5	The proposal is unlikely to encounter Acid Sulfate Soils in this location.
Earthworks		YES	(see Section 4.1.3)
Landslip Risk		YES	(see Section 4.1.4)

4.1.3 Building Height

The LEP provides a height standard of 8.5m. The existing building is up to 10.38m high, exceeding the standard by 1.88m (22%). The proposed dwelling will have a maximum building height of 9.03m, measured from the highest point of the roof (above the Sixth Floor Level) to the Existing Ground Level immediately below. This results in a maximum height of building exceedance of 0.53m (6%) from the LEP standard. However, this is reduced from the existing situation. The variation is also at a much lower RL than the rear roof which is compliant.

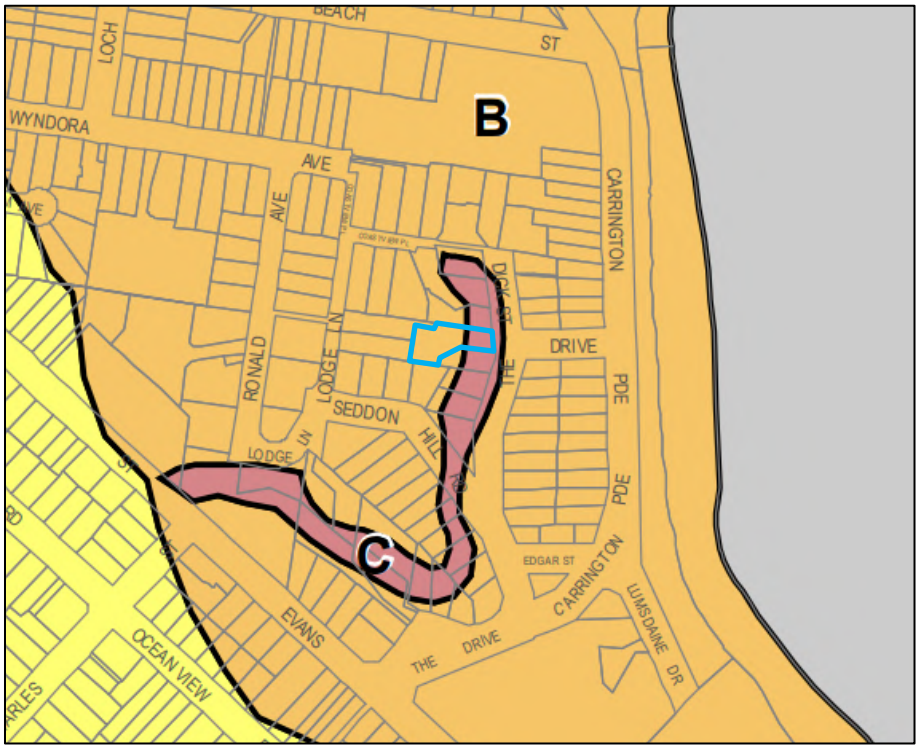
A Clause 4.6 variation has been submitted separately which is, in our opinion, well founded.

4.1.4 Earthworks

The LEP requires the consent authority to consider the effects of earthworks on drainage patterns and soil stability. The Geotechnical Report has investigated the existing rock types and considered excavation methods to limit effects on nearby residents and developments. Disposal methods and destinations for excavated material will be outlined in a future Construction Management Plan.

4.1.5 Development on Sloping Land

The landslip risk has been assessed by Crozier geotechnical consultants in a Geotechnical Assessment Report as the site is located in Council's Landslip Risk Classes B and C (see **Figure 15** on the following page).



Source: Warringah LEP

Subject Site

Figure 15: Landslip Risk Map

The consultant report identified the following, inter alia:

> *Provided the recommendations of this report are implemented, including further investigation, detailed geotechnical monitoring and the installation of engineered support systems, the likelihood of any failure becomes 'Unlikely' and as such the consequences reduce with risk becoming within 'Acceptable' levels when assessed against the criteria of the AGS.*

Accordingly, the landslip risks can be considered acceptable.

4.2 State Environmental Planning Policy (SEPP) (Sustainable Buildings) 2022

SEPP (Sustainable Buildings) 2022 was gazetted on 1 October 2023, and applies to the subject site. The Sustainable Buildings SEPP requires all new residences in NSW to meet sustainability targets for energy and water use relative to their climate zones. In considering the merits of the proposal, it is appropriate to refer to the sustainability targets of the SEPP.

A BASIX Report prepared for the proposed development (separately submitted) shows the proposed residential dwelling can satisfy the relevant water and energy reducing targets and thermal performance.

4.3 State Environmental Planning Policy (SEPP) (Resilience and Hazards) 2021

SEPP (Resilience and Hazards) 2021 came into effect on 1 March 2022 and consolidated the previous Coastal Management, Remediation of Land and Hazardous and Offensive Development SEPPs as Chapters 2, 3 and 4 within the new SEPP. The coastal management and remediation of land provisions are relevant in this instance.

4.3.1 Coastal Management

Section 2.11 requires the consent authority to consider whether the proposal is likely to cause an adverse effect within the coastal use area as follows, inter alia: (if required)

(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.*

(2) This section does not apply to land within the Foreshores and Waterways Area within the meaning of State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 6.

With regard to Section 2.11, the proposal has been designed, sited and will be managed to any adverse effects on the coastal use area. The proposal has taken into account the bulk, scale and size of the proposal, in relation to the surrounding coastal and built environment.

Additionally, Section 2.12 applies to development within the coastal zone, generally. Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land. The proposal is not considered likely to increase risk of coastal hazards on the subject site or other land.

4.4.2 Remediation of Land

Section 4.6(1) requires the consent authority to consider whether land is contaminated prior to the consent of development on that land.

The owners have advised that as the long term use of the site has been residential, the site is unlikely to be contaminated. On this basis, further investigation is not considered necessary.

4.4 Warringah Development Control Plan (DCP) 2011

The DCP came into force on 30 September 2005 and applies to the site and the proposed development. Council's DCP contains specific controls relating to low density residential development and is outlined in **Table 2** below

4.4.1 DCP Compliance

A summary of our assessment of the proposed development against the DCP is following (see **Table 2**).

TABLE 2: PROJECT COMPLIANCE - WARRINGAH DCP 2011

Provision	Requirement	Proposal	Complies
Wall Heights	Walls are not to exceed 7.2 metres from ground level (existing) to the underside of the ceiling on the uppermost floor of the building (excluding habitable areas wholly located within a roof space).	>7.2m to the underside of the ceiling on the uppermost floor	YES
Side Boundary Envelope	45˚ incline plane from 5m above EGL at side boundaries	Portion of non-trafficable roof within the inclined plane	Appropriate on Merit (see Section 4.4.2)
Side Boundary Setbacks	0.9m Landscaped and free of any above or below ground structures (except fences and driveways) Screens, sunblinds, light fittings, electricity, service infrastructure and structures >1m above EGL permissible within setback	Minor works proposed within side setback	Appropriate on Merit (see Section 4.4.3)
Front Boundary Setbacks	6.5m Landscaped and free of any structures, basements, carparking	Front garage structure partially located within front setback, behind existing garage location	Appropriate on Merit (see Section 4.4.4)
Rear Boundary Setbacks	6m Landscaped and free of any above or below ground structures	Gym and steam room located in rear setback Rear setback appears as landscaped	Appropriate on Merit (see Section 4.4.3)
Parking Facilities	2 car spaces required	2 spaces proposed	YES
	Garage doors and carports are to be integrated into the house design and to not dominate the façade.	Brass garage doors are well integrated in the building design and match with the pedestrian entry	YES
	Parking is to be located so that views of the street from front windows are not obscured	Parking located at a lower level than front windows, ensuring no obscuring of views	YES
	Garage or carport opening does not exceed 6 metres or 50% of the building width, whichever is the lesser. (5.74m)	6m	Appropriate on Merit (see Section 4.4.5)

Excavation and Landfill	Excavation and landfill works must not result in any adverse impact on adjoining land.	Excavation works to be undertaken in accordance with geotechnical report	YES
	Excavated and landfill areas shall be constructed to ensure the geological stability of the work.		
	Excavation and landfill shall not create siltation or pollution of waterways and drainage lines, or degrade or destroy the natural environment		
	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.	Minimal landfill proposed	YES
Demolition and Construction	Must comply with appropriate sections of the waste management guidelines	Waste management outlined in SWMMP (separately submitted)	YES
Landscaped Open Space	Min. 40% of site area	40.73%	YES
Private Open Space	3+ bedrooms – Min. 60m^2 with minimum dimensions of 5m	>60m^2	YES
	Private open space is to be directly accessible from a living area of a dwelling	All private open space is directly accessible from living areas	YES
	Private open space is to be located and designed to ensure privacy of the occupants of adjacent buildings and occupants of the proposed development.	Private open space compliantly setback from adjacent dwellings to ensure privacy for occupants	YES
	Private open space shall not be located in the primary front building setback.	Primary open space located substantially recessed with all proposed open space being located further from the front boundary than existing	YES
	Private open space is to be located to maximise solar access.	Private open space to receive solar access	YES
Access to Sunlight	Development should avoid unreasonable overshadowing any public open space.	No public open space affected	YES (see Section 5.3.2)
	50% of required POS area of dwelling and adjoining dwellings receive min. 3 hours of sunlight	>3 hours of adjoining dwellings POS	
Views	Development shall provide for the reasonable sharing of views.	Surrounding sites continue to receive adequate views	YES (see Section 5.3.3)
Privacy	Building layout should be designed to optimise privacy for occupants of the development and occupants of adjoining properties.	Openings to the side boundaries limited	YES (see Section 5.3.1)

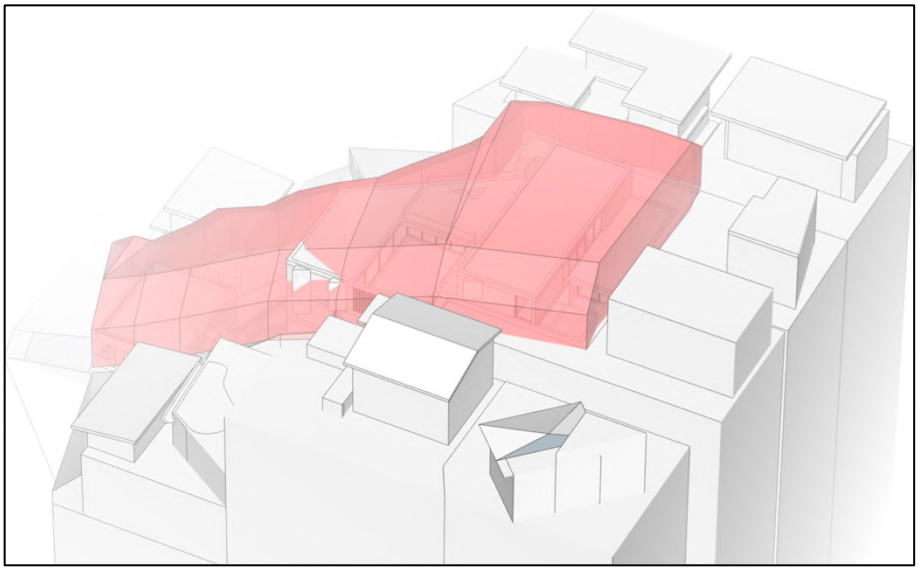
Privacy	Orientate living areas, habitable rooms and windows to private open space areas or to the street to limit overlooking.	All relevant areas oriented towards the street to limit overlooking	YES (see Section 5.3.1)
	The windows of one dwelling are to be located so they do not provide direct or close views (ie from less than 9 metres away) into the windows of other dwellings.	Windows located and screened to prevent direct views within 9m to neighbouring dwellings	
Building Bulk	Side and rear setbacks are to be progressively increased as wall height increases.	Steep topography of the site provides inconsistent wall heights	YES
	Large areas of continuous wall planes are to be avoided by varying building setbacks and using appropriate techniques to provide visual relief.	Large wall planes are avoided	YES
	On sloping land, the height and bulk of development (particularly on the downhill side) is to be minimised, and the need for cut and fill reduced by designs which minimise the building footprint and allow the building mass to step down the slope. In particular: The amount of fill is not to exceed one metre in depth. Fill is not to spread beyond the footprint of the building. Excavation of the landform is to be minimised.	Proposed fill partially exceeds 1m in depth at certain locations to minimise excavation	Appropriate on Merit (see Section 4.4.6)
	Building height and scale needs to relate to topography and site conditions.	Stepped building design responds to the steep topography of the site	YES
	Orientate development to address the street.	Development retains orientation to the street	YES
	Use colour, materials and surface treatment to reduce building bulk.	Neutral colour palette and materials proposed	YES
	Landscape plantings are to be provided to reduce the visual bulk of new building and works.	Dense central planting as well as green roof landscaping reduced visual bulk of proposed building	YES
	Articulate walls to reduce building mass.	Articulation proposed across all levels	YES

Roofs	Lift overruns, plant and other mechanical equipment are not to detract from the appearance of roofs.	Lift overrun not proposed	YES
	Roofs should complement the roof pitch and forms of the existing buildings in the streetscape.	Proposed dwellings roof will appear as flat, compatible with surrounding buildings	YES
	Articulate the roof with elements such as dormers, gables, balconies, verandah and pergolas.		
	Roofs shall incorporate eaves for shading.		
Site Facilities	Waste and recycling bin enclosures to be durable, integrated with the building design and site landscaping, suitably screened from public places, located for convenient access for collection	Able to comply	YES
	All dwellings which are required to have landscaped open space are to be provided with adequate open air clothes drying facilities which are suitably screened from public places or streets	Opportunities for open air-drying facilities present	YES
Side and Rear Fences	Side and rear boundary fences are to be no higher than 1.8 metres on level sites	Subject site is not level	N/A
	For sloping sites, the height of fences may be averaged and fences and walls may be regularly stepped.	Proposed fence is averaged and regularly stepped	YES
Swimming Pools and Spa Pools	Pools are not to be located in the front building setback.	Pool not located within front building setback	YES
	Swimming pools and spas are to be setback from any trees. Protection of trees on development sites is to be used to determine an appropriate setback.	Swimming pools appropriately set back	YES
Safety and Security	Buildings are to overlook streets as well as public and communal places to allow casual surveillance.	Lower building allows for casual surveillance to street	YES
	Service areas and access ways are to be either secured or designed to allow casual surveillance.	Service areas are in secure locations	YES
	There is to be adequate lighting of entrances and pedestrian areas.	Able to comply	YES

Landslip Risk	The applicant must demonstrate that: The proposed development is justified in terms of geotechnical stability; and The proposed development will be carried out in accordance with good engineering practice.	Landslip risks addressed in Geotechnical report prepared by Crozier Geotechnical Consultants	YES
	Development must not cause detrimental impacts because of stormwater discharge from the land.		
	Development must not cause detrimental impact on the existing subsurface flow conditions including those of other properties.		
	For land identified as being in Area C or E: A geotechnical report must be submitted with the development application		

4.4.2 Side Boundary Envelope

Council's DCP requires that building envelopes should remain within a 45˚ inclined plane at 5m above the Existing Ground Line at the side boundary. The proposed dwelling will comprise minor works within this inclined plane, including an upper portion of the Level 6 living room and the non-trafficable roof above (see **Figure 16**). The minor exceedance does not directly adjoin the neighbouring dwelling at No. 6 Coastview Place, maintaining adequate separation from the property. Additionally, as the area of the roof within the inclined place is non-trafficable and the windows proposed comprise angled blade walls, privacy to neighbouring dwellings is conserved.



Source: Tobias Partners

Figure 16: Side Boundary Envelope Diagram

The proposed works in the inclined plane are also a function of the steep topography of the site. The substantial changes in levels along the side boundary and cross fall of the site mean that a development

that steps up the topography of the site will still technically result in a non-compliant built form. This is shown as the development complies with the side boundary envelope control on the southern boundary but not on the northern boundary, despite the proposed dwelling being at the same level.

Additionally, the proposal achieves the objectives of the control, as discussed below:

Objective: *To ensure that development does not become visually dominant by virtue of its height and bulk.*
Response: The proposal will not be visually dominant by virtue of its height or bulk as the variation with the control is isolated and minor. Additionally, the proposed variation is located well below the maximum level of the dwelling and appears to step down the steep topography of the site.

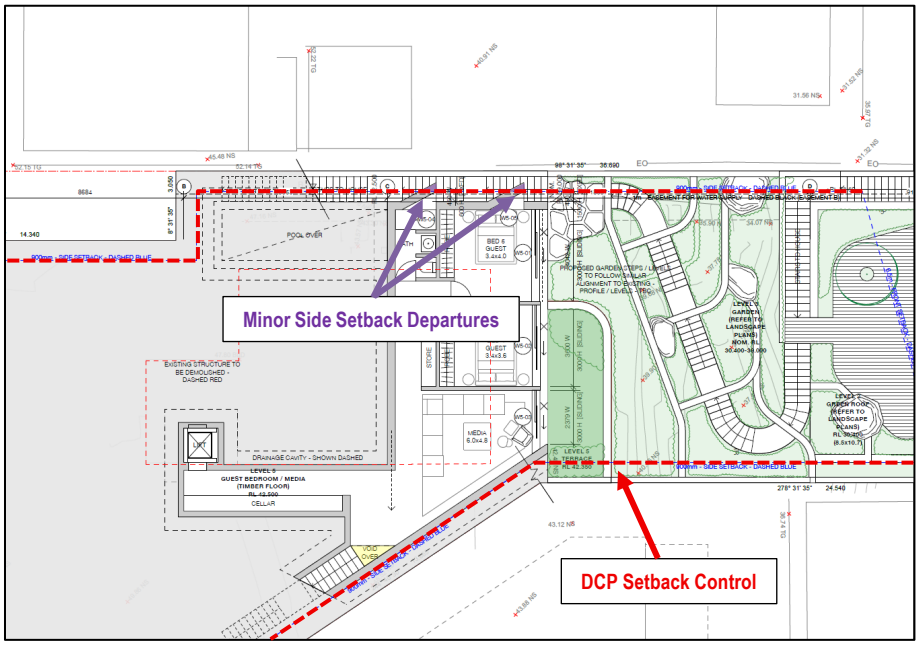
Objective: *To ensure adequate light, solar access and privacy by providing spatial separation between buildings.*
Response: The proposed works exceeding the inclined plane will not result in loss of solar access to the neighbouring property and privacy will be retained as there are no opportunities for sightlines due to the blade walls and non-trafficable roof. Adequate separation between properties is maintained.

Objective: *To ensure that development responds to the topography of the site.*
Response: The proposed dwelling responds to the steep topography of the site. The proposed variation is technical in nature and due to a drop in topography along the side boundary.

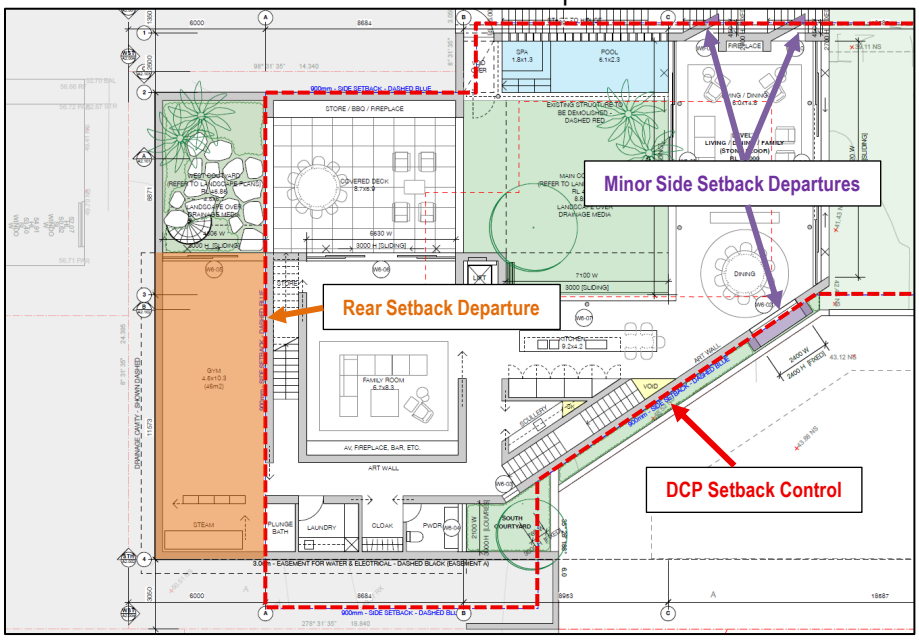
Accordingly, the proposed minor side boundary envelope variation is considered appropriate in this instance.

4.4.3 Side and Rear Setbacks

Council's DCP requires a minimum setback of 0.9m to the side boundary of the property. The only minor proposed works within the setbacks will be the privacy blades of Bedroom 5, the Level 6 bathroom and the living and dining room. These proposed blades are for privacy reasons only and limit potential sightlines to adjoining properties. Additionally, Council requires a setback of 6m from the site's rear boundary, stipulating that the rear setback is to be landscaped and free of any above or below ground structures. The proposal will consist of a gym, steam room and plunge bath within the rear setback. It is important to note that these works will be located below a landscaped area and will not be discernible from neighbouring properties or the public domain. The dwelling will appear as having a fully landscaped rear setback due to the discreet location of the proposed works (see **Figure 17** & **18** on the following pages).



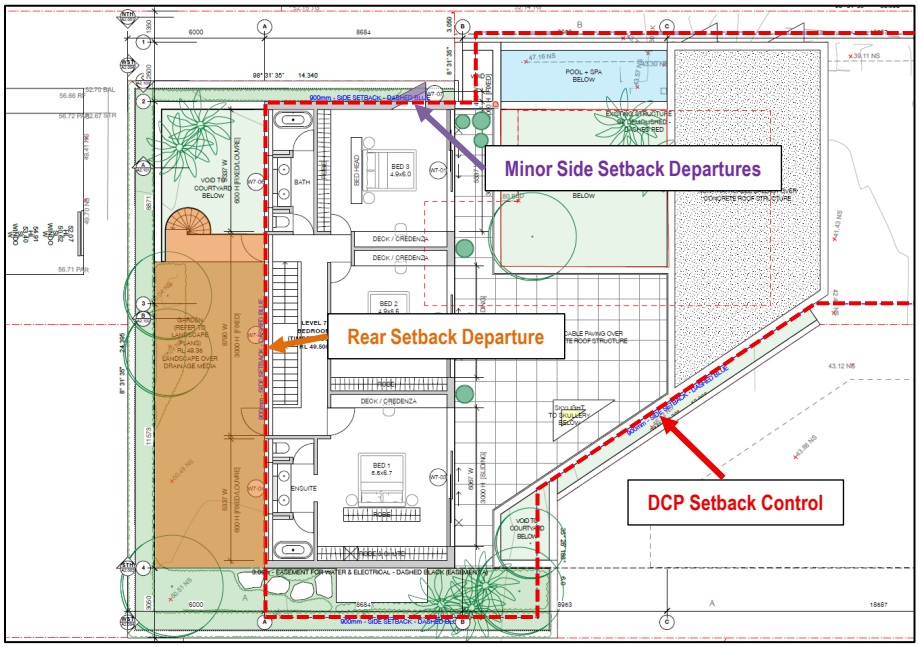
Level 5 Side Setback Departure



Level 6 Side and Rear Setback Departure

Source: Tobias Partners

Figure 17: Proposed Side and Rear Setback Departures



Level 7 Side and Rear Setback Departure
Source: Tobias Partners

Figure 18: Proposed Side and Rear Setback Departures

The proposal still achieves the objectives of both controls, as stated below:

Side Setback Objectives

Objective: *To provide ample opportunities for deep soil landscape areas*
Response: Deep soil planting opportunities are still provided within side setbacks and throughout the site, achieving compliant landscaped area overall.

Objective: *To ensure that development does not become visually dominant.*
Response: Works within side setbacks are limited to privacy walls for compliant windows. This small departure will not result in a visually dominant development.

Objective: *To ensure that the scale and bulk of buildings is minimised.*
Response: As previously indicated, the minor extent of the breaches for the purpose of privacy will not result in an unreasonable level of scale and bulk.

Objective: *To provide adequate separation between buildings to ensure a reasonable level of amenity and solar access is maintained.*
Response: Adequate separation is maintained between the main built form and adjacent buildings, given the minor extent and nature of the variation.

Objective: *To provide reasonable sharing of views to and from public and private properties.*
Response: The minor proposed works with side setbacks will not result in unreasonable loss of views to surrounding properties, as primary views are obtained across the front setback .

Rear Setback Objectives

Objective: *To ensure opportunities for deep soil landscape areas are maintained.*
Response: Opportunities for deep soil planting remain available within the rear setback, contributing to overall compliant landscaped area.

Objective: *To create a sense of openness in rear yards.*
Response: The rear yard will appear as open landscaped area, given the location of the proposed works being below the EGL.

Objective: *To preserve the amenity of adjacent land, particularly relating to privacy between buildings.*
Response: There will be no overlooking opportunities provided from the works in the rear setback.

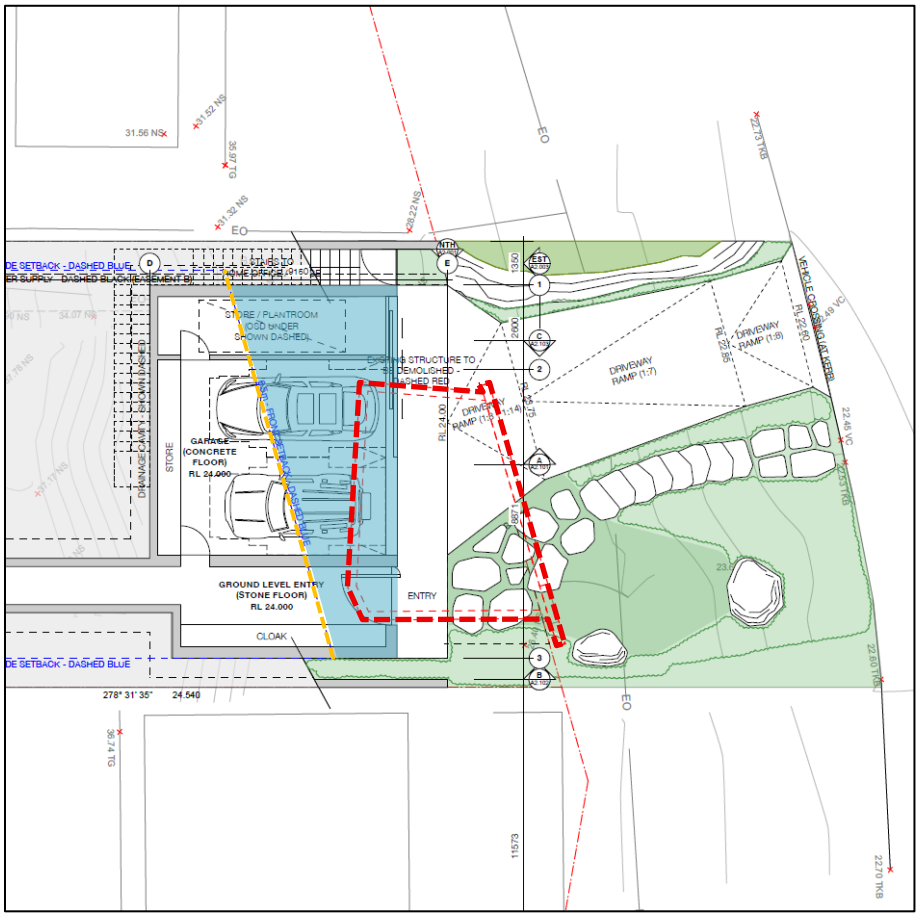
Objective: *To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*
Response: Given the eclectic subdivision pattern, there is no existing continuous pattern of rear gardens. The proposal will retain the existing main building's siting with green space within the rear setback.

Objective: *To provide opportunities to maintain privacy between dwellings.*
Response: Given the subterrain location of the variation, the proposed rear setback will appear as compliant and thus has similar privacy effects to a fully compliant built form.

Accordingly, the proposed side and rear setbacks are considered appropriate in this instance.

4.4.4 Front Setback

Council's DCP map stipulates a front setback of 6.5m applies to the subject site. The proposed garage structure and living area above will have areas located partially within the front setback. It is worth noting the existing garage is built along the front boundary and is thus set back 0m (see **Figure 19**). Although the proposed constitutes a variation from the control, this is an improvement from the existing situation as the front building will be considerably set back from the street and will follow the existing development pattern of front garages and dwellings, typical of the streetscape (see **Figure 20**).



Source: Tobias Partners

Figure 19: Front Setback Variation

Source: SIX Maps

Figure 20: Location Plan

Additionally, the proposal achieves the objectives of the control

Objective: *To create a sense of openness.*
Response: The proposed works in the front setback will be considerably set back from the street, by a greater distance than many existing buildings in the streetscape. The area between the street and front boundary will feature architecturally designed landscaping that will contribute to the openness of the property.

Objective: *To maintain the visual continuity and pattern of buildings and landscape elements.*
Response: The proposed works are typical of the streetscape and will incorporate landscape elements throughout.

Objective: *To protect and enhance the visual quality of streetscapes and public spaces.*
Response: The proposed works will be an upgrade from the existing, aged garage structure, which represents a greater non-compliance. The new garage structure will enhance the streetscape.

Objective: *To achieve reasonable view sharing.*
Response: There are no existing views that will be significantly affected by the proposed variation.

Accordingly, the proposed front boundary setback variation can be considered appropriate.

4.4.5 Garage Width

Council's DCP requires the opening of a garage to not exceed 6 metres or 50% of the building width. In this instance, as the building width is 11.48 metres the applicable control is 5.74 metres. The proposed garage opening measures 6m, which constitutes a minor variation of 0.26m (4.5%). It is important to note that the proposed garage would comply if the 6m control were to be applied.

The proposed garage will achieve the objectives of the control, as stated below:

Objective: *To provide adequate off street carparking.*
Response: Compliant off-street parking provided in line with Councils parking rates.

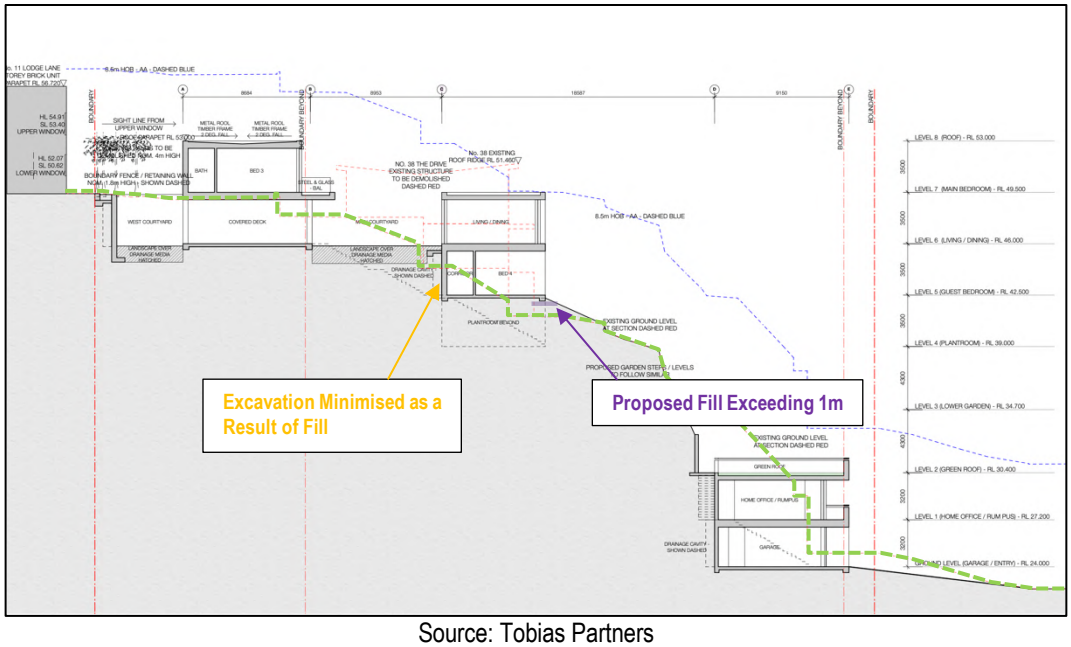
Objective: *To site and design parking facilities (including garages) to have minimal visual impact on the street frontage or other public place.*
Response: The minor variation with the control will not be readily discernible when viewed from the public domain as the location of the garage set back from the street will have minimal visual impact.

Objective: *To ensure that parking facilities (including garages) are designed so as not to dominate the street frontage or other public spaces.*
Response: The location of the garage being further setback from the existing will not dominate the streetscape.

Accordingly, the proposed garage opening width can be considered appropriate.

4.4.6 Excavation Depth

Council's DCP stipulates that fill should not exceed 1 metre in depth and that excavation should be minimised. At limited forward areas of Level 6, a fill of 1.24m is required to achieve a flat floor level. This constitutes an exceedance of 0.24m with the control (see **Figure 21**). This fill is required to limit the excavation toward the rear of the floor level. If the amount of fill proposed was limited to a complying level, excavation would not be minimised, and the control would not be achieved.



Source: Tobias Partners

Figure 21: Diagram Demonstrating Minimised Excavation Through Fill >1m

Additionally, despite the minor exceedance, the proposal will achieve the objectives of the control

Objective: *To encourage good design and innovative architecture to improve the urban environment.*

Response: The proposal is for an architecturally designed dwelling that will respond to the sloping topography of the site and contribute to improving the urban environment.

Objective: *To minimise the visual impact of development when viewed from adjoining properties, streets, waterways and land zoned for public recreation purposes.*

Response: Reduced excavation through a marginally non-compliant fill depth will more appropriately respond to the topography and minimise potential impact of the development, if compared to a fully compliant fill depth.

Accordingly, the proposed minor fill depth variation can be considered appropriate.

5.0 PLANNING ASSESSMENT

This section will consider the following: The Assessment of the Natural Environmental Impact; the Built Environment Impacts; the Site Suitability and the Public Interest in accordance with Section 4.15 of the EPA Act.

5.1 Assessment of Natural Environmental Impacts

This section will assess the topographic and scenic impacts as well as the water and air quality impacts of the proposed development.

5.1.1 Topography & Scenic Impacts

Excavation will be undertaken in accordance with Council's standard conditions of consent and the recommendations contained in the Geotechnical Report, prepared by Crozier Geotechnical Consultants (separately submitted). The proposal excavation is distributed over the length of the property and will be undertaken in accordance with the geotechnical recommendations. These recommendations pertain to excavation methodology and techniques, dilapidation surveys, vibration monitoring, hydrogeology, retention, shoring, footings, and basement floor slabs.

5.1.2 Water & Air Quality Impacts

With implementation of the proposed Stormwater Management Plan, the proposed development is unlikely to result in any adverse effects on the locality in terms of water and air quality. Stormwater and runoff will be managed in accordance with the Stormwater Engineer's recommendations and any Council conditions of consent.

5.2 Assessment of Built Environmental Impacts: Character and Context

This section will address the effects of the proposed development on the character and context of the area.

5.2.1 Impact on the Area's Character

The surrounding development on the high side of The Drive is characterised by multi-storey, stepped dwellings with garages at street level. Many nearby dwellings are recent and of a contemporary style. Nearby dwellings adjoin large nature strips with sloped driveways leading to the garages. There are developments lower on their lots and closer the street as well as developments at higher levels, further up the slope.

The desired future character of an area, which is also determined by the zoning, objectives, and development standards of the LEP, is achieved through providing a compatible and permissible use in the low-density zone, meeting the objectives of the zone. In our opinion, the proposal will make a positive contribution to the locality. This is achieved by providing a new, high quality contemporary residence that has improved internal and external amenity compared to the existing older dwelling.

The proposal has a two storey appearance at the street level as well as a two storey appearance for the primary building (see **Figure 22** on the following page). It has a single storey appearance when viewed from the rear. The proposal is consistent with the objectives of the built form controls contained within the DCP and LEP and will maintain amenity to neighbouring dwellings by effectively responding to the topography of the site.

Existing

Proposed

Source: Tobias Partners

Figure 22: The Proposal in the Streetscape

5.3 Assessment of Built Environmental Impacts: Privacy and Amenity

This section considers any aural and visual privacy effects resulting from the proposal and needs to be considered in conjunction with Section 4.4. It will specifically address sunlight access, view sharing and privacy.

5.3.1 Aural and Visual Privacy

The design and layout of the proposal will maintain aural and visual privacy for residents of neighbouring sites. Given the continuing low density residential use, it is unlikely that there would be significant additional noise generation associated with the proposal.

Proposed windows on the dwelling are primarily oriented towards the front and rear of the site. The limited windows that are proposed on side elevations are all suitably screened behind angled blade walls that orient sightlines in a forward direction, away from neighbouring properties. These measures ensure privacy to adjoining neighbours from windows.

The proposed trafficable terrace above Level 6 is set back a greater level than required to maintain

neighbouring privacy. In locations where sightlines from the terrace may be available, these are offset from neighbouring windows to habitable rooms, ensuring sufficient privacy is maintained.

As indicated, while the proposal does not strictly comply with some building envelope controls, the areas of variation will not have additional privacy impact.

Accordingly, the sensible design is, in our opinion, appropriate in terms of aural and visual privacy.

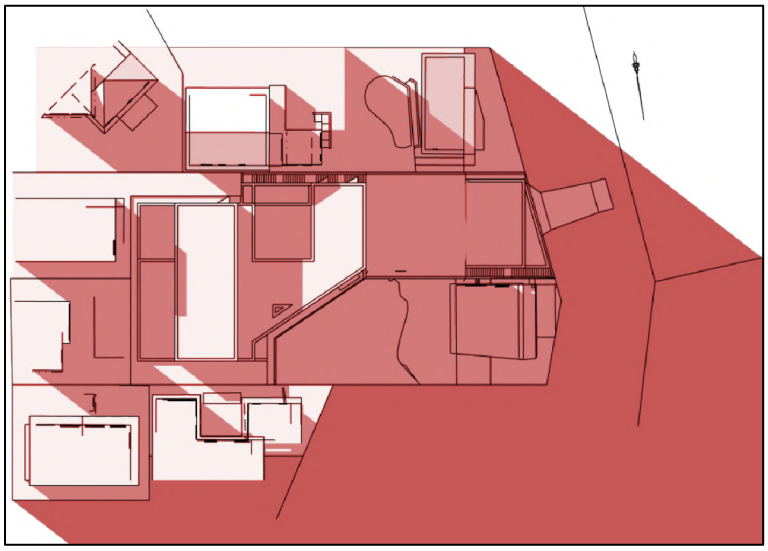
5.3.2 Access to Sunlight

To assess the effect of the proposed development in terms of solar access, shadow diagrams have been prepared for 9:00 am, 12 noon and 3:00 pm for the winter solstice (June 21) (see **Figures 23** & **24**). These diagrams indicate that the proposed development will result in some additional shadowing to the inner courtyard private open space of No. 1 Seddon Hill Road, to the site's south. This additional shadowing will occur at 3pm and be minor in nature. Importantly, the proposed shadowing will achieve Council's control of at least 50% of adjoining private open space receiving at least 3 hours of sunlight between 9am and 3pm on June 21.

9am

12pm

Figure 22: Proposed Shadow Diagrams



3pm

Source: Tobias Partners

Figure 23: Proposed Shadow Diagrams

At 9am, there is no shadowing to neighbouring sites.

At 12pm, the extent of shadowing to adjoining dwellings is limited to the non-trafficable garden bed. It is worth noting that this area will receive adequate sunlight at other times of the day.

As indicated, the main extent of shadowing occurs at 3pm to the inner courtyard pool of the adjoining property. Shadowing at this point will maintain compliance with Council's shadowing controls.

In light of the above, despite the envelope variations, the proposal delivers compliant levels of solar access to neighbouring properties.

5.3.3 View Sharing

In the assessment of development applications relating to view issues, the NSW Land and Environment Court rely on the principle of the *Tenacity v Warringah Council* [2004] NSWLEC 140. Our assessment of the proposal against this planning principle is included below. The four steps in assessing view affectation are considered as follows:

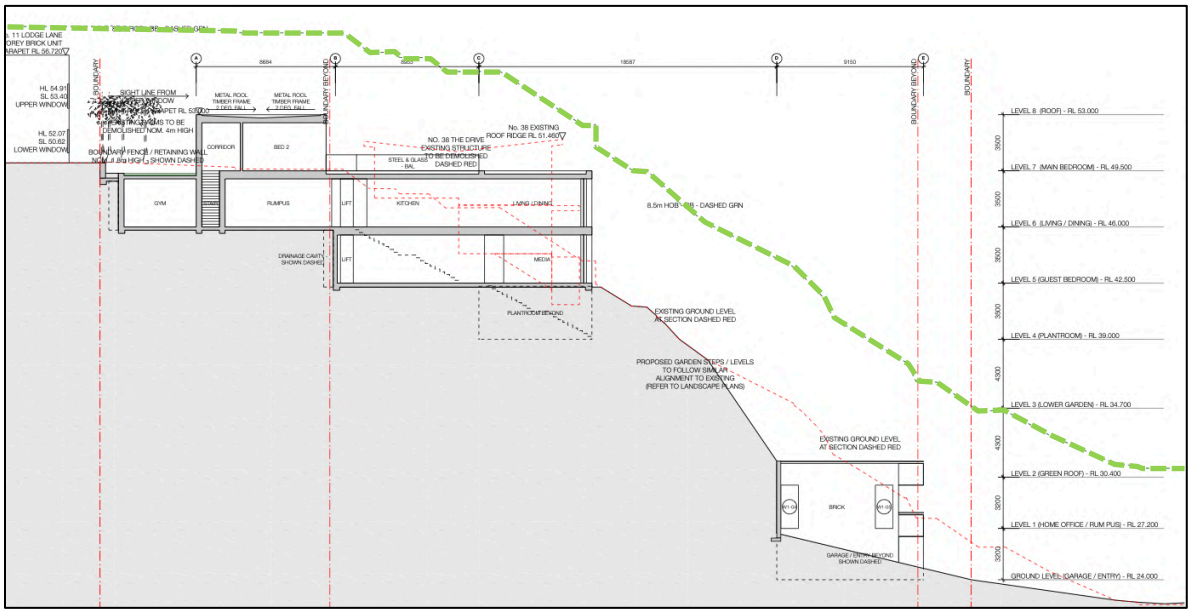
- *Assessment of the Views Affected*
- *From What Part of the Property are the Views Obtained?*
- *The Extent of the Impact*
- *The Reasonableness of the Proposal*

Our assessment has relied on an inspection around the subject site, real estate photographs, a previous view assessment and survey information, available at the time of preparing this report. We have not had the opportunity to inspect neighbouring properties.

Primary views from surrounding site are oriented east towards the ocean, with potential views also being oriented towards the north of the site, towards Curl Curl Beach.

Properties to the west of the subject site enjoy views over the existing and adjoining sites towards the Ocean. The rear Seventh Floor Level, located towards the rear of the site and most visible portion of the building will be located substantially below the maximum permissible building height. This means that if the building were to be built to a fully compliant envelope, it would result in a worse view sharing outcome

(see **Figure 24**).



Source: Tobias Partners

Figure 24: Long Section Showing 8.5m LEP Height Standard in Green

Views over the property to Curl Curl beach can be achieved from the dwelling to the south at No. 1 Seddon Hill Road. At this location, the proposed development will be at a lower level than the existing which will improve this view.

Accordingly, despite the variations, an appropriate view sharing outcome is achieved.

5.4 Assessment of the Site Suitability

This section will consider the proximity of the site to services and infrastructure; traffic, parking and access issues; and hazards.

5.4.1 Proximity to Services and Infrastructure

This site is well located in terms of public transport. The nearest bus stop is located 83 metres away on Carrington Parade and services route No. 167 providing regular access to Manly and Warringah Mall.

As the site is within an established area, electricity, telephone, water and sewerage are also readily available.

5.4.2 Traffic, Parking and Access

The proposal provides 2 car spaces, which complies with Council's car parking requirements and complies with parking dimensions listed in AS2890.1 – 2004 for off-street parking.

The proposed development will relocate the existing driveway partially to the north. The proposed driveway will maintain a similar scale and size to the existing.

As the proposal complies with the required number of spaces and geometry of Council's DCP and AS 2890.1:2004, will satisfy the likely parking demand for the proposal, it is therefore suitable from a traffic and parking point of view.

5.4.3 Hazards

The site is in an area recognised by Council as being subject to landslip risk. The proposed development will not increase the likelihood of such hazards.

The Geotechnical Assessment Report prepared by Crozier Geotechnical Consultants recommends further geotechnical excavation be undertaken before bulk excavation commences. Subject to additional investigation being undertaken, the Assessment Report concluded the site is considered suitable for the proposed works.

5.5 The Public Interest

This section will consider the social and economic effects of the proposal and the public interest.

5.5.1 Social and Economic Impact

The proposal will have social and economic benefits in the area with the construction of a well-designed and elegant new dwelling. This will contribute to meeting the demand for residential housing in the LGA.

The dwelling will be constructed from visually recessive materials and will have the main dwelling substantially recessed from the front boundary which will reduce its visibility when viewed from Wentworth Avenue. The new dwelling will comply with current standards; reduce water and energy consumption through efficient fixtures, fittings and insulation; and continue to provide the same amount of off-street parking for residents and their visitors. This will reduce water consumption and parking congestion in the area.

The proposal will provide employment during demolition and construction and in the provision of maintenance services once the dwelling is occupied.

5.5.2 The Public Interest

The proposal has been designed with consideration of the adjoining residents' amenity and the streetscape. Importantly, the proposal meets the zone objectives of providing a dwelling that aligns with the character of the area, as well as the desired future character.

It will provide an architecturally designed dwelling which is a contextually appropriate scale and form for the area. The building has been designed to maintain neighbours' and local amenity and contribute positively to the streetscape and local character. The proposal is a quality development which is in the public interest.

6.0 CONCLUSION

The proposed dwelling at No. 38 The Drive, Freshwater has been assessed in accordance with Section 4.15 of the EPA Act and Council's planning instruments. The proposal is permissible in the R2 Low Density Residential Zone under the LEP and in our opinion achieves the relevant objectives of the Zone. In our assessment, the proposal is also consistent with the provisions and/or objectives in the LEP.

This SEE demonstrates the proposal for the demolition and construction of a new dwelling house development will achieve the desired character of the area and maintain the relationship with surrounding development. The proposal provides consistency in scale, form, proportions, setbacks and materials. This design approach ensures that the proposal will enhance the local streetscape character.

While there is an area of non-compliance in the maximum building height of the LEP, this is a function of the steep topography and has been fully justified in the accompanying Clause 4.6 Application to Vary a Development Standard. The Clause 4.6 Application demonstrates the proposal satisfies matters for consideration and achieves the objectives of the planning controls. In our opinion, the application is considered to be well-founded.

The proposal demonstrates consistency in scale, form, proportions, setbacks, and materials. It complies with majority of DCP controls, and is consistent with the built form objectives As a result, the new building envelope is unlikely to cause significant overshadowing, privacy impacts, or obstruct significant views from surrounding properties and the public domain. This considered design approach supports and enhances the character of the local streetscape.

The SEE is accompanied by consultant reports. These reports have informed our assessment, and the consultant reports confirm the proposal is suitable in the locality.