

# Statement of Environmental Effects

Development Application  
Semi-Detached Dwellings  
Lots 10 & 11 DP270907  
8 & 9 Baz Retreat,  
Warriewood

EVOLUTION PLANNING







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Semi-Detached Dwellings  
Lots 10 & 11 DP270907  
8 & 9 Baz Retreat  
Warriewood

Prepared for:  
Colonial Credits

April 2020



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## INTRODUCTION

# 1 Introduction

This Statement of Environmental Effects (SEE) accompanies a Development Application (DA) made pursuant to Section 4.12 of the Environmental Planning and Assessment Act 1979, (the Act), for the Torrens title subdivision of Lots 10 and 11 in DP270907(8 & 9 Baz Retreat, Warriewood respectively) and the development of semi-detached dwellings.

The DA does not constitute *designated development* or *integrated development* and is assessed under Section 4.15.

This DA has been prepared with the assistance of a number of specialists who have informed design development and this assessment. The project team includes:

E & P Comelli	Project Management
DKO	Architecture
Evolution Planning	Town Planning, Statement of Environmental Effects
Landscaping Design	Hamilton Landscape Architects
Veris	Land Survey
Nastasi and Associates	Stormwater Management

The reports and other related material prepared by these specialists accompany the DA and are referred to throughout this SEE.

## 1.1 Background

### 1.1.1 Pre- DA Consultation

A Pre-DA meeting (PLM2019/0260) was held with Council staff on 10/12/2019. The Minutes received from that meeting are summarised and addressed below.

PRE-DA	Response
Lodgement of single or multiple applications	No restriction either way.
<u>Pittwater LEP 2014</u>	
Definition – Subdivision and semi-detached dwellings	Noted
Zoned R3 Medium Density	Noted
Permitted with consent	Noted
Height – 10.5m	Lot 10 – 7.8m Lot 11 – 9.5m
<u>Density Controls and Subdivision</u>	





## INTRODUCTION

<p>LEP Cl.6.1 Dwelling Yield 40 – 61 (Total for sectors 1j and 1k)</p> <p>50 dwellings approved. 4 lots no approval 1 lot DA lodged for single dwelling</p> <p>Total Approved/Lodged – 55 dwellings</p> <p>Proposal will increase the number of Approved/Lodged to 59</p>	<p>The proposal is within the anticipated density range for the combined sectors.</p>
<p><u>Pittwater 21 DCP</u></p>	
<p>Warriewood Valley Locality – Compliance with the desired future character</p>	<p>Complies. The proposal is consistent with the desired future character of the locality. Refer to discussion below.</p>
<p>Access driveways and works on the public road reserve – Demonstrate compliance</p>	<p>Complies. Refer to discussion below.</p>
<p>Internal Driveways - Demonstrate compliance</p>	<p>Complies. Refer to discussion below.</p>
<p>Parking – 2 spaces/dwelling</p>	<p>Complies. 2 spaces/dwelling in tandem proposed</p>
<p>Site Management Works – Demonstrate compliance</p>	<p>Complies. The new lots are already cleared and have been prepared for construction. Detailed Construction Management Plans will be provided upon the appointment of a builder during the construction certification process.</p>
<p>Natural Environment and Landscaping Principles - Demonstrate compliance</p>	<p>Complies. Refer to discussion below.</p>
<p>ESD, Safety and Social Inclusion - Demonstrate compliance</p>	<p>Complies. Refer to discussion below.</p>
<p>Utilities and Services - ESD, Safety and Social Inclusion - Demonstrate compliance</p>	<p>Complies. Refer to discussion below.</p>
<p>Subdivision Principles - Demonstrate compliance</p>	<p>Complies. Refer to discussion below.</p>
<p>Subdivision Approval Requirements - Demonstrate compliance</p>	<p>Complies. All required documents are provided.</p>
<p>Specifications for Buffer Area 1a to 1m - Demonstrate compliance</p>	<p>Complies. No further assessment issues are raised as a result of the proposed development.</p>
<p>Character as viewed for a public space - Demonstrate compliance</p>	<p>Complies. Refer to discussion below.</p>
<p><u>Landscaped Area</u></p>	<p>Compliance noted, except strict numeric compliance with respect to Dwelling 10/2.</p>





## INTRODUCTION

<p>25% / 3m min. dimension</p> <p>One small tree in front and rear setbacks</p> <p>Lot 10 – 19.2%/30.7%</p> <p>Lot 11 – 27.3%/27.4%</p> <p>Lot 10 eastern dwelling is deficient with landscaped area taking into account the 3m min. dimension. Non-compliance to be justified in SEE.</p> <p>Landscaping Plan required.</p>	<p>As discussed below, the proposed non-compliance is considered to be justified in light of the consistency of the proposal with the desired outcomes/objectives of the guideline and the ability to apply the DCP in a flexible manner in accordance with Section 4.15(3A)(b) of the Act.</p> <p>Landscaping plans and specifications accompany the DA.</p>
Front Building Line	Complies
Side and Rear Building Lines	Complies
Solar Access	Complies
Private Open Space	Complies
Form of construction, retaining walls, terracing and undercroft areas - Demonstrate compliance	Complies. No further assessment issues are raised as a result of the proposed development.
Fences - Demonstrate compliance	Complies. No fencing is proposed forward of the front building line.
<p>Water Management:</p> <ul style="list-style-type: none"> <li>• Erosion and sediment control plan required;</li> <li>• 1500L rainwater tank required for each dwelling;</li> <li>• Max. 65% impervious area</li> </ul>	<p>Provided;</p> <p>Provided;</p> <p>All new lots have impervious areas of less than 65%. Refer to the accompanying development statistics</p>
<p>Concluding Comments:</p> <p><i>"The proposal demonstrates merit and may be supported"</i></p>	
<u>Documents Required</u>	All provided





## SITE

### 2 Site

The subject land, comprises two lots, known as 8 and 9 Baz Retreat, Warriewood, legally described as Lots 10 and 11 in DP270907.

Lot 10 has an area of 345.15sq.m and a frontage of 13.86m. Lot 11 has an area of 338.61sq.m and a frontage of 12.5m.

Both lots are clear of any structures and vegetation and are prepared for construction. The site is not heritage or bushfire affected.

Lot 10 is presently shown on Councils mapping system as being low risk flood prone land. This modelling is now understood to be out of date due to the clearing and preparation of the land for development, which included filling activity, and Lot 10 is no longer flood prone in the 1/100 year event.

Refer to Aerial Context Plan and land subdivision plan below.



Figure 1: Aerial location plan (boundaries indicative)

Source: Six Maps



SITE

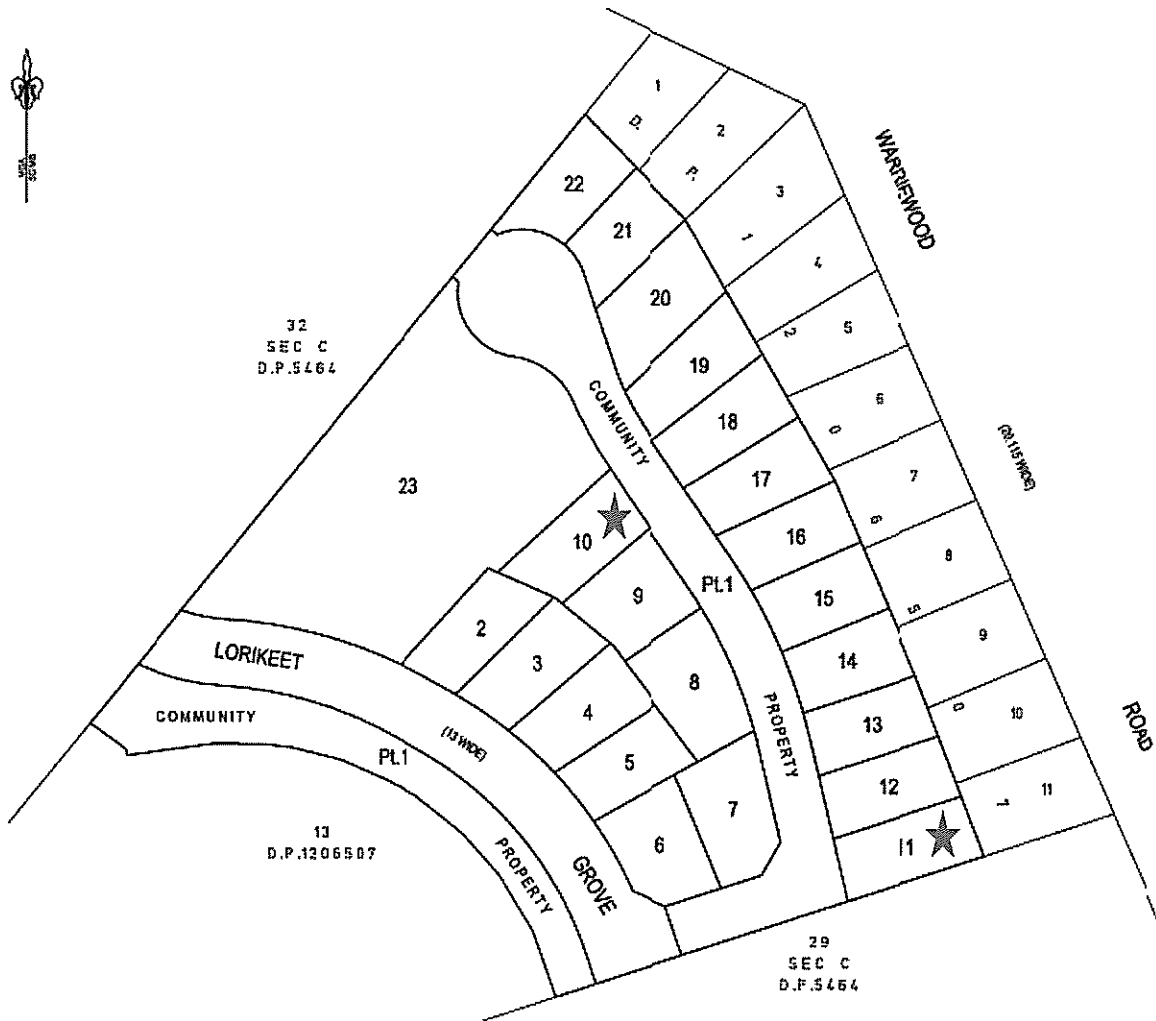


Figure 2: Extract title plan





### 3 Proposal

Development consent is sought as follows:

- Torrens title subdivision of lot 10 in DP270907 into two lots;
- Torrens title subdivision of lot 11 in DP270907 into two lots;
- Construction of 2 x semi-detached dwellings on the proposed new lots – total four dwellings.

Lot 10 will comprise two new lots, lot 10/1 measuring 180.97sq.m and lot 10/2 measuring 164.18sq.m.

Lot 11 will comprise two new lots, lot 11/1 measuring 171.90sq.m and lot 11/2 measuring 166.71sq.m.

The applicant would like to seek flexibility to stage the release of Construction, Occupation and Subdivision Certificates for the dwellings and request that any consent conditions be structured to allow for individual issue of these certificates.

The applicant therefore requests that the following conditions related to certification be imposed to avoid any difficulty:

- Construction Certificates be applied for and issued on a lot by lot basis.
- Occupancy Certificates be applied for and issued on a lot by lot basis
- Subdivision certificates be applied for and issued on a lot by lot basis.

Each new semi-detached dwelling will contain 3 bedrooms at the first-floor levels and a single garage with a separate driveway which will be used for tandem parking. Each dwelling will include an open plan living and dining area at the rear ground floor opening out onto private open space.

Refer to the extracts below of the proposed perspectives.



Figure 3: Lot 10 perspective



## PROPOSAL

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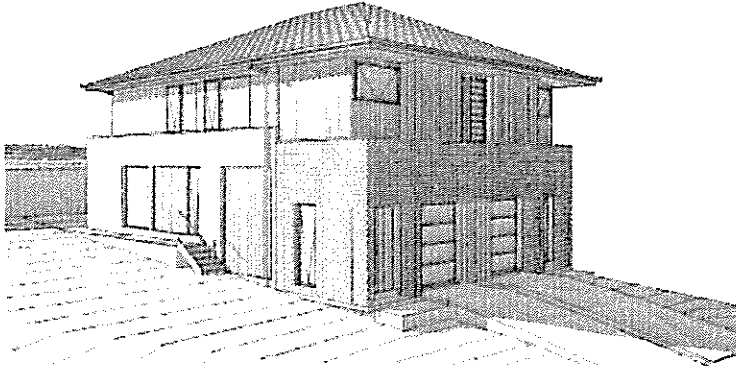
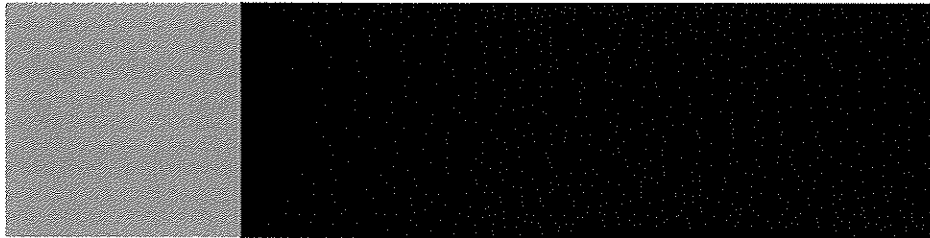


Figure 4: Lot 11 Perspective

The proposed landscaping design includes a tree at the front and rear of each of the proposed dwellings, with appropriately proportioned landscaping at the front setback and the use of landscaping to create private open space areas at the rear of each dwelling of high amenity.

The proposed materials and finishes include a variety of earthy tones of rendered painted finishes.



**Render 1**  
Resene Foggy Grey

**Render 2**  
Resene Nocturnal

**Garage**  
Monument

**Roof\_**  
Monument

Figure 5: Extract schedule of finishes



## 4 Statutory Assessment

### 4.1 Environmental Planning and Assessment Act 1979

The proposal does not constitute *designated development* or *integrated development*.

This application is made pursuant to Section 4.12 of the Act and is assessed under s.4.15.

### 4.2 Relevant Environmental Planning Instruments and Planning Policies

The following Environmental Planning Instruments and Planning Policies have been considered as part of this assessment:

- Pittwater Local Environmental Plan 2014;
- State Environmental Planning Policy No. 55: Remediation of Land;
- State Environmental Planning Policy (BASIX) 2004;
- Pittwater 21 Development Control Plan 2014.

### 4.3 Pittwater Local Environmental Plan 2014

#### 4.3.1 Zoning and Permissibility

The site is zoned R3 Medium Density.

The proposed development is best described as “subdivision” and “semi-detached-dwellings”, forms of development which are permitted with consent in the R3 zone.

The objectives of the zone are:

- *“To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for a limited range of other land uses of a low intensity and scale, compatible with surrounding land uses”*

The proposed development is considered to be consistent with the related zone objectives given the form of housing will add to the variety of housing available to the community in the medium density zone.

#### 4.3.2 Height of Buildings

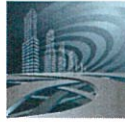
A development standard related to height of 10.5m applies to the land.

With maximum heights of 7.8m and 9.5m, both proposed buildings comply with the development standard.

#### 4.3.3 Preservation of Trees and Vegetation

No trees are to be removed. Both lots are free of any vegetation.





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### 4.3.4 Warriewood Valley Release Area

The site is located within the Warriewood Valley Release Area. Lot 10 is within Buffer Area 1j and Lot 11 is within Buffer Area 1k.

#### 4.3.4.1 Objective of the Warriewood Valley Release Area

The related objectives of the Release Area are:

- *to permit development in the Warriewood Valley Release Area in accordance with the Warriewood Valley Strategic Review Report and the Warriewood Valley Strategic Review Addendum Report,*
- *to ensure that development in that area does not adversely impact on waterways and creek line corridors, protects existing native riparian vegetation and rehabilitates the creek line corridors.*

It is submitted that the proposed development is entirely consistent with these objectives for the following reasons:

- As discussed below, the proposed development will be consistent with the anticipated dwelling yields for the sectors;
- The proposed development complies with the approved water management plan for the overall subdivision of the sector (DA2013/182) and the requirement for the quantity of impervious area not to exceed 65%. Stormwater discharge from the site will drain by gravity to the existing detention basin before discharging to the creek to the south.

#### 4.3.4.2 Dwelling Density

Under Clause 6.1(3) of the LEP development consent must not be granted for development within Buffer Area 1j with a density of not more than 40 dwellings or less than 26 dwellings; and in the case of Buffer Area 1k a density of not more than 21 dwellings or less than 14 dwellings.

This results in a combined density range of not more than 61 dwellings or less than 40 dwellings.

Fifty (50) dwellings have already been approved across the two sectors; 4 lots have no approval and 1 lot is the subject of a DA for a single dwelling. The total number of approved/lodged dwellings is 55.

The proposed number of dwellings is 4 and therefore the proposed development will fall within the permitted density range.

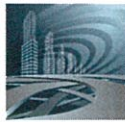
The proposed development is consistent with the objectives of the Strategy and complies with the density provisions for the Warriewood Valley Release Area under the LEP.

### 4.3.5 Acid Sulphate Soils

The site is identified as being Class 5 Acid Sulphate Soils. No further investigation is required in this respect since the proposed development will not interfere with the water table.

### 4.3.6 Biodiversity

The subject lots are not identified as having biodiversity value.



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### 4.3.7 Geotechnical Hazards

The land has already been prepared for construction and no significant potential geotechnical hazards are present and no significant earthworks are proposed.

### 4.3.8 Essential Services

All services are available.

The proposed development fully satisfies the related provisions of LEP 2014.

## 4.4 State Environmental Planning Policy No. 55: Remediation of Land

SEPP 55 aims to promote the remediation of contaminated land to reduce the risk of harm to human health and the environment. The policy requires a consent authority, when considering a development application, to take into consideration whether land is contaminated, and if so, whether the land is suitable for the proposed development, either in its current state or subject to remediation.

The suitability of the site in this respect has already been considered to be satisfactory upon the determination of DA2013/182.

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

The DA is accompanied by BASIX certification.

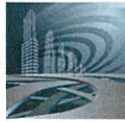
## 4.6 Draft Environmental Planning Instruments

At the time of the preparation of this report to the best of our knowledge there were no draft environmental planning instruments which would affect the assessment of this matter.

## 4.7 Pittwater 21 Development Control Plan 2014

DCP	Proposal	Compliance
<u>A4.16 Warriewood Valley Locality</u>	<p>The locality statement of the Warriewood Valley Release Area is as follows:</p> <p><i>Warriewood Valley Release Area continues to be developed as a desirable urban community in accordance with the adopted planning strategy for the area, and will include a mix of low to medium density housing, industrial/commercial development, open space and community services. The creekline corridors, roads and open space areas form the backbone of the new community, complemented with innovative water management systems, the natural environment, pedestrian/cycle path network, public transport, and recreation facilities.</i></p>	✓





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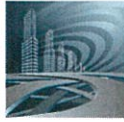
	<p><i>Stage 1 Release, has a residential component and a business/industrial component. The residential area is characterised by two storey residential attached dwellings with the area fully developed. The industrial/business area is defined by up to three storey large complexes that generally contain smaller units. The majority of the business/industrial zoned land has been developed with some smaller parcels still to be developed in the northern industrial area.</i></p> <p><i>The Warriewood Valley locality is characterised by a mix of residential, retail, commercial, industrial, recreational, and educational land uses.</i></p> <p><i>Warriewood Valley is affected by various hazards and contains heavily vegetated areas, threatened species, or areas of natural environmental significance, which are identified on various maps within the Pittwater LEP 2014.</i></p> <p><i>A number of identified heritage items are located in Warriewood Valley.</i></p> <p>The proposed development is consistent with the locality statement since it is in accordance with the density provisions under the LEP; comprises two storey residential development; and, the land, specifically, is not subject to any hazards or significant environmental value.</p>	
<p>B3 Natural Hazards</p>	<p>The development of the land does not have any significant implications with respect to potential landslip or contamination.</p> <p>Lot 10 is presently shown on Councils mapping system as being low risk flood prone land. This modelling is now understood to be out of date due to the clearing and preparation of the land for development, which included filling activity, and Lot 10 is no longer flood prone in the 1/100 year storm event.</p>	<p>✓</p>
<p>B3.23 Climate Change (Sea Level Rise and Increased Rainfall Volume)</p>	<p>Potential sea level rise was considered during the DA for the overall subdivision of the land.</p>	<p>✓</p>
<p>B4 Natural Environment</p>	<p>The proposed lots are free of any vegetation and do not, at present, comprise natural habitat. Creek lines and natural water courses in proximity of the land will be protected by the</p>	<p>✓</p>





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	implementation of the approved stormwater management plan for the overall subdivision.	
B5 Water Management	<p>Water management will accord with the approved water management plan for the overall subdivision of the sector (DA2013/182) and the requirement for the quantity of impervious area not to exceed 65%.</p> <p>Stormwater discharge from the site will drain by gravity to the existing detention basin before discharging to the creek to the south.</p> <p>1500L rainwater tanks are provided to each dwelling.</p>	✓
<p>B6.1 Access driveways and works on the public road reserve</p> <p>B6.2 Internal Driveways</p>	<p>The proposed driveways comply with the related provisions under this Part for the following reasons:</p> <ul style="list-style-type: none"> <li>• 1 crossing / dwelling is proposed;</li> <li>• Adequate sightlines are provided;</li> <li>• Compliance with <i>AS/NZS 2890.1-2004: Parking Facilities - Part 1: Off-Street Car Parking</i> is achieved;</li> <li>• The driveways have gradients which at their greatest slope measure 24%.</li> </ul>	✓
<p>B6.3 Car Parking</p> <p>Dwellings/Town houses – 2 spaces</p>	2 spaces provided for each dwelling	✓
B8 Site Management	<p>No demolition is required.</p> <p>Construction management documentation will be provided prior to construction certification once a builder has been appointed.</p>	✓
C6 Design Criteria for Warriewood Valley Release Area		
C6.1 Integrated Water Cycle Management	<p>Water management will accord with the approved water management plan for the overall subdivision of the sector (DA2013/182) and the requirement for the quantity of impervious area not to exceed 65%.</p> <p>Stormwater discharge from the site will drain by gravity to the existing detention basin before discharging to the creek to the south.</p> <p>1500L rainwater tanks are provided to each dwelling.</p>	✓
C6.2 Natural Environment and Landscaping Principles	The proposed landscaping design is considered to satisfy the principles under this Part since the landscaped area is largely	✓



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	<p>deep soil and includes trees in both the front and rear setback areas of each dwelling lot.</p> <p>The proposed landscaping design is considered to achieve an outcome which is integrated with the development of the land and responds satisfactorily to the context.</p>	
C6.3 Ecologically Sustainable Development (ESD), Safety	<p>The DA is accompanied by BASIX certification.</p> <p>All living areas will receive good levels of solar access during mid-winter in accordance with or in excess of this DCP and each dwelling will be fitted with water efficient fittings. Each dwelling will also have a 1500L rainwater tank for site irrigation and grey-water re-use purposes.</p> <p>The proposed dwellings support the CPTED principles as follows:</p> <p><u>Natural Surveillance</u></p> <p>The dwellings have glazed entry areas and a first-floor bedroom providing surveillance to the front setback area.</p> <p><u>Access</u></p> <p>The front setback areas of the dwellings are not secured – an open design approach which is consistent with the area (and required under the DCP in light of fences forward of the building line not being permitted).</p> <p>The side of rear of the dwellings will be secured by the provision of 1.8m high fences along the side boundaries to the front building line and gates to allow secured access along the sides of each dwelling where a setback exists.</p> <p><u>Territorial Reinforcement</u></p> <p>The proposed landscaping design is considered to satisfactorily delineate the public and private areas.</p>	✓
C6.5 Utilities	All services are available	✓
C6.7 Landscaping	Refer to locality specific guidelines below.	✓
C6.8 Subdivision Principles	<p>The proposed lots are consistent with the principles for subdivision for the following reasons:</p> <ul style="list-style-type: none"> <li>• They are generally rectangular in shape;</li> <li>• Their orientation allows for good levels of solar access to living areas and private open space areas;</li> <li>• The shape and area of the lots are appropriate to accommodate the type and density of housing proposed and achieve a landscaping outcome which will result in good levels of residential amenity;</li> </ul>	✓





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	<ul style="list-style-type: none"> <li>• Rear access is not practical in the circumstances of this case;</li> <li>• Not more than 3 attached dwellings are proposed without a break in the streetscape;</li> <li>• The proposed subdivision allows for a further variety of dwelling types.</li> </ul>	
C6.9 Residential Land Subdivision Approval Requirements	Dwelling plans have been provided in accordance with this Part.	✓
C6.10 Additional Specifications for Buffer Area 1a to 1m	The proposed development raises no further assessment issues under this Part	✓
D16 Warriewood Valley		
D16.1 Character as viewed from a public space	The proposed lot orientations and envelopes allow for articulated facades which face the street; the concealment of plant; and, garage doors which comply with this Part being of single width with a hardstand area in front of them.	✓
D16.4 Water Management for Individual Lots	The proposed dwelling lots each have 1500L rainwater tanks and impervious areas of less than 65% in accordance with the approved stormwater management plan.	✓
D16.5 Landscaped Area 25%	The proposed lots comply with the provisions under this Part except for a minor shortfall with the landscaped area of Dwelling 10/2. Refer to discussion below.	Satisfactory
D16.6 Front Building Lines Garage 4m Dwelling 5.5m	<p>Lot 10/1 – 5.6m (dwelling and garage)</p> <p>Lot 10/2 – 5.5m (dwelling) 5.8m (garage)</p> <p>Lot 11/1 – 7.2m (dwelling) 7.4m (garage)</p> <p>Lot 11/2 – 6.8m (dwelling) 7m (garage)</p>	<p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p>
D16.7 Side and Rear Setbacks Side – 0.9m Rear dwelling – Gr. - 4m, Level 1 - 6m	<p>Lot 10/1 - 1.2 to 1.7m eastern side, 4.1m ground floor rear, 7.1m upper floor rear</p> <p>Lot 10/2 - 1.1m western side, 7.9m ground floor rear, 11m upper floor rear</p> <p>Lot 11/1 - 0.9m eastern side, 4.7m ground floor rear, 6.7m upper floor rear</p> <p>Lot 11/2 - 0.9m western side, 4.5m ground floor rear, 6.5m upper floor rear</p>	<p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p>
D16.9 Solar Access Dwellings 2 hours	The living areas at Lot 10 will receive direct solar access in the morning and the afternoon respectively, as will the areas of private open space, for a minimum of 2 hours.	✓





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Overshadowing	<p>The living areas and private open space areas of the dwellings at Lot 11 are northerly orientated and will receive solar access in excess of the minimum requirements.</p> <p>Sunshine to clothes drying areas is available.</p> <p>As shown on the shadow diagrams provided, no significant adverse shadow impacts will be introduced to neighbouring properties to a degree that would limit solar access below that anticipated under this DCP.</p>	✓
D16.10 Private and Common Open Space 20sq.m/4m	Each dwelling has an area of open space in excess of 20sq.m with minimum dimensions of 4m. Refer to the accompanying site plans.	✓
D16.11 Light weight structures and terraces; D16.12 Fences; D16.13 Materials	<p>No retaining wall structures visible from the public domain are proposed.</p> <p>No fences are proposed forward of the front building line.</p> <p>The proposed materials are consistent with the desired future character of the area.</p>	✓

### 4.7.1 Landscaped Area

The minimum landscaped area requirement for each new lot is 25% with minimum dimensions of 3m.

The proposed landscaped areas are as follows:

Lot	Landscaped Area
10/1	31%
10/2	19.2%
11/1	28.2%
11/2	26.7%

Refer to the accompanying schedule of landscaping area plans showing how such areas have been calculated.

It is also worthy to consider that the front garden areas of Dwellings 10/1 and 10/2 have been excluded from the landscaped area calculation due to these spaces being marginally below 3m in width. The inclusion of the front garden of Dwelling 10/2 (which is only 500mm less than the 3m minimum dimension) would result in full compliance with the landscaping requirements under the DCP.

The width of the front garden of Dwelling 10/2 is considered to be proportional to the overall width of the lot and will satisfactorily contribute to the streetscape since the garden areas of Dwellings 10/1 and 10/2 are contiguous and in light of the absence of fencing and will be perceived as a single landscaped space.

The general landscaping requirements (as relevant to this DA) are addressed as follows:



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- *The minimum depth of the landscaped area within the front setback is to be in accordance with the dimensions specified in control D16.6 Front building lines.*

Comment: The proposed dwellings comply with all setback guidelines.

- *The infiltration of rain water into the water table to reduce stormwater runoff should occur and where possible, development should facilitate the retention of existing trees and vegetation, as well as provide opportunities for new canopy tree planting.*

Comment: The proposed development lots all have less than the maximum impervious area of 65%, having impervious areas as follows:

Lot	Impervious Area
10/1	52.5%
10/2	58.9%
11/1	63%
11/2	63.5%

No trees are being removed as a result of this proposal and trees are being provided in accordance with this DCP.

- *At the time of planting, trees are to have a minimum container size of 45 litres, complying with the requirements of Specifying Trees: A Guide to Assessment of Tree Quality (Natspec, 2003).*

Comment: The proposed trees will have a container size of 45L. Refer to the accompanying landscaping specifications.

- *Understorey plant species, in conjunction with the tree planting, are to screen 50% of the built form when viewed from the street after five (5) years from the date of issue of the occupation certificate. In order to achieve this, all understorey planting is to have a minimum container size of 200mm at the time of planting. Consideration shall be given to the appropriate use of exotic shrub planting at a maximum of 30% of the total shrub schedule.*

Comment: The proposed trees at the front of each dwelling will screen at least 50% of the buildings having a spread of 4-6m.

Refer to the typical landscaping section drawing below taken from the front of the building to the street which shows the progressive heights of plantings.



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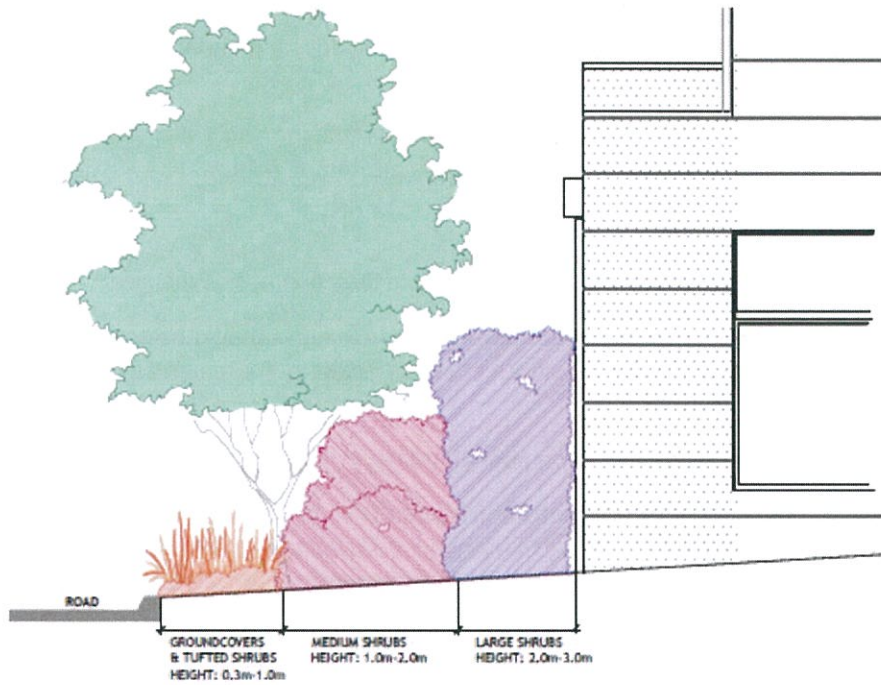


Figure 6: Typical landscaping section from street to building.

- On residential lots, landscaping provisions are to also address the following:
  - for lots fronting all other streets (except lots less than 6m wide) are to provide at least one small tree within the front setback;

Comment: Each new dwelling lot will have a small tree in the front setback area.

- all lots, except deep lots less than 20 metres, are to provide at least one small tree at the rear of the lot;

Comment: Each new dwelling lot will have a small tree in the front setback area.

- all small trees are to achieve a canopy height of 6 metres at maturity. Small canopy trees shall be selected from the following list:
  - *Acmena smithii* 'cultivars';
  - *Backhousia myrtifolia*, *Banksia serrata*;
  - *Banksia integrifolia*;
  - *Callitris rhombodea*;
  - *Ceratopetalum gummifera*;
  - *Hymenoporum flavum*;
  - *Syzygium paniculatum* 'cultivars';
  - *Tristaniopsis laurina*; and
  - *Livistona australis*.

Comment: The proposed trees shall have a mature height of 12-15m.





## STATUTORY ASSESSMENT

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The proposed development therefore fully complies with the landscaping requirements for new lots except for Dwelling 10/2 which has a shortfall in the quantum of overall landscaped area when measured in accordance with the DCP.

To address this variation, we rely on Division 3.6 of the Environmental Planning and Assessment Act 1979 which puts in statute the flexibility with which DCPs should be applied as follows:

- the provisions of DCPs are non-statutory;
- the provision of the DCP should facilitate the achievement of the zone objectives; and,
- where numeric compliance is not met then alternative design solutions should be considered on the basis of consideration against the objectives of the particular guideline and the DCP be applied with flexibility.

Section 3.42 of the Act contains provisions related to purpose and status of DCPs as follows:

- (1) ***The principal purpose of a development control plan is to provide guidance on the following matters to the persons proposing to carry out development to which this Part applies and to the consent authority for any such development:***
- (a) ***giving effect to the aims of any environmental planning instrument that applies to the development,***
  - (b) ***facilitating development that is permissible under any such instrument,***
  - (c) ***achieving the objectives of land zones under any such instrument.***

***The provisions of a development control plan made for that purpose are not statutory requirements.***

***[emphasis added]***

Section 4.15 of the Act “Evaluation” at subclause (3A)(b) states:

- (b) *if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development*

We therefore request that the landscaped area requirement for new lots under the DCP be applied, as legislated under the Act, with flexibility, subject to the satisfaction of the related objectives.

The Outcomes or “Objectives” related to landscaped area are addressed below:

- *Conservation of significant natural features of the site and contribution to the effective management of biodiversity.*

Comment: The proposed development will not introduce any adverse impacts on significant natural features or the biodiversity value of the land.

The proposed landscaping will contribute to the biodiversity value of the land by introducing a variety of plant species to the site, including trees at the front and rear of each new lot in accordance with this DCP, creating new habitat for birds, insects and small reptiles.



## STATUTORY ASSESSMENT

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- *Warriewood Valley achieves a unified and high-quality landscape character that contributes to the sense of place.*

Comment: The proposed landscaping is considered to be of high quality through the careful selection of species and the proportions and relationship of the landscaping design and the proposed buildings. The proposed landscaping is considered to be consistent with the landscaping approach across this portion of the release area and the minor shortfall in the width of the front garden of Dwelling 10/2 for it to be technically included as landscaped area and achieve compliance is not considered to create a landscaping outcome which is somehow inconsistent with the landscaping character.

- *Landscaping promotes ecologically sustainable outcomes, maintaining and enhancing biological diversity and ecological processes.*

Comment: As discussed above, the proposed landscaping will satisfy the desired outcomes in terms of biodiversity.

ESD principles are supported by the selection of native species which are more drought tolerant than exotic species and may be sought from local nurseries minimising transport and thereby emissions. ESD principles are further supported by having landscaping at a scale which is congruous with the scale and design of the buildings allowing for solar access to living spaces.

- *The area of site disturbance is minimised.*

Comment: The proposed dwelling lots have already been prepared for development and minimal site disturbance is proposed.

- *Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.*

Comment: The DA is accompanied by an Erosion and Sediment Control Plan. Stormwater runoff is minimised by each new lot having quantities of impervious areas of less than 65%, (which is the maximum quantity identified in the approved stormwater management plan with respect to the capacity of the shared detention basin).

- *Landscaped areas should be predominately areas of deep soil.*

Comment: All landscaped areas are deep soil zones.

- *New development is blended into the streetscape and neighbourhood through the retention and enhancement of vegetation.*

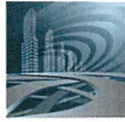
Comment: There is no vegetation presently on the proposed lots.

The proposed landscaping will result in a satisfactory streetscape outcome, by tiering the heights of selected species away from the street and by the provision of a tree in the front setback areas. Refer to Figure 6 above.

As discussed above, despite the width of the front garden area of Dwelling 10/2 being marginally below 3m, it is contiguous with the neighbouring front garden and a satisfactory streetscape outcome will be achieved.

- *To ensure a reasonable level of privacy and amenity is provided within the development site and maintained to neighbouring properties.*

Comment: The proposed landscaping, along with the proposed associated boundary fences located behind the front building line, will result in a landscaping outcome which creates private open space areas of high amenity with areas in excess of that required under this DCP, which allow for



## STATUTORY ASSESSMENT

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shaded areas and open spaces. Reasonable levels of privacy will be achieved between neighbouring properties.

### General

The proposed landscaping demonstrates consistency with the desired outcomes of this Part of this DCP, being a satisfactory landscaping outcome in terms of the natural environment; the character of the locality; the streetscape; stormwater management; and, residential amenity.

In support of this variation, it should also be noted that 3 of the 4 new lots exceed the minimum quantity of landscaped area required and if combined the four proposed lots have a combined landscaped area of 26.4% or more relevantly with respect to proposed variation at Lot 10, the combined landscaping across Dwelling 10/1 and 10/2 is 25.4%.

The proposed landscaping is considered to fully satisfy the desired outcomes of this Part, despite numeric compliance with of Dwelling 10/2, and in accordance with Act a variation to the guideline is considered to be justified in the circumstances of this case.

## 4.8 Likely Impacts

The proposed development is not considered to introduce any significant adverse biophysical, social or economic impacts on neighbouring properties or the environment.

## 4.9 Suitability of the site

There are no natural or man-made site affectations that would hinder the proposed development, particularly in light of the approved plan of subdivision and earlier investigations which were carried out in terms of the suitability of the land for residential purposes at his density.

## 4.10 Submissions

The proposed development will be notified in accordance with Pittwater DCP 2014.

Any submissions received are required to be considered under Section 4.15 the Act. Evolution Planning will be happy to provide any further responses to any potential submissions, where necessary.

## 4.11 Public Interest

The proposed development is considered to be in the public interest since it assists in meeting the Planning Strategy for the land and to meet the housing targets identified in that Strategy without adversely impacted on the natural or built environments.





## CONCLUSION

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### 5 Conclusion

The proposed development has been assessed under Section 4.15 of the Act as being satisfactory.

The proposal fully complies with the related planning instruments and policies except for strict compliance with the landscaped area for new lots under the Development Control Plan with respect to Dwelling 10/2.

The variation to this guideline is fully justified in accordance with Division 3.6 of the Act which allows for the flexible application of such policies, given the consistency of the landscaping proposal is entirely consistent with the desired outcomes.

The non-compliance stems from the inability to include the front garden area of Dwelling 10/2. Both the front garden areas of Dwellings 10/1 and 10/2 have been excluded from the landscaped area calculation due to the dimensions of these spaces. The inclusion of the front garden of Dwelling 10/2 (which is only 500mm less than the 3m minimum dimension) would result in full compliance with the landscaping requirements under the DCP.

The width of the front garden of Dwelling 10/2 is considered to be proportional to the overall width of the lot and will satisfactorily contribute to the streetscape since the garden areas of Dwellings 10/1 and 10/2 are contiguous and in light of the absence of fencing and will be perceived as a single landscaped space.

It is therefore recommended that Concept Approval be granted subject to appropriate consent conditions.

APPENDICES

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