

SUBJECT: N0535/17 - Construction of a new dwelling with Lot 15, Cherry Lane, Warriewood

Determination Level: **Manager - Development Assessment**

SUMMARY OF RECOMMENDATION: **REFUSAL**

REPORT PREPARED BY: Christopher Nguyen

APPLICATION SUBMITTED ON: 22 November 2017

APPLICATION SUBMITTED BY: CLARENDON HOMES PTY LTD
PO BOX 7105
BAULKHAM HILLS BC NSW 2153

OWNER(S): Abax Contracting Pty Ltd

1.0 SITE DETAILS

The site is known as Lot 15, Cherry Lane, Warriewood and legally referred to as Lot 15 DP 736961. The total area of the site is listed as 604m². The site is currently vacant and forms part of a new subdivision accessed by Cherry Lane. A site inspection was conducted on 21/03/2018.

2.0 PROPOSAL IN DETAIL

The proposal seeks consent for a new single dwelling on Lot 15, Cherry Lane, Warriewood. The cost of works is indicated to be \$534,947

3.0 STATUTORY AND POLICY CONSIDERATIONS

The site is zoned R3 Medium Residential under Pittwater Local Environmental Plan 2014. Pursuant to the land use table in Part 2 of this instrument, new dwellings are permissible with consent.

The following relevant state, regional and local policies and instruments apply:

- Environmental Planning and Assessment Act, 1979 (the Act)
- Environmental Planning and Assessment Regulation 2000 (the Regulation)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX)
- Pittwater Local Environmental Plan 2014 (PLEP 2014)
 - Acid Sulphate Soils Map - Class 5
 - Biodiversity Map
 - Geotechnical Hazard Map
 - Height of Buildings Map - 10.5m
 - Urban Release Area Map - Sector 901B
- Pittwater 21 Development Control Plan (P21 DCP)
 - Warriewood Valley Locality
 - Geotechnical Risk Management Policy for Pittwater
 - Flood Risk Management Policy for Development in Pittwater
 - Flora and Fauna Category 1 and 2

Variation to development standards:

The application does not seek to vary a development standard.

4.0 BACKGROUND

N0535/17 was lodged at Council at 22/11/2017 and referred to Council's Development Engineer, Catchment Management Officer, Health Officer, Natural Resources Officer and S94 Officer.

A search of Council's records revealed the following:

N0209/14 - Development Application for a 23 lot community title subdivision was granted consent by the Land and Environment Court on 02/06/2015

N0209/14/S96/1 - S96(AA) for modification to N0209/14 was granted consent on 08/09/2015

N0209/14/S96/2 - S96(AA) for modification to N0209/14 was refused on 06/09/2016

N0209/14/S96/3 - S96(AA) for modification to N0209/14 was refused on 13/12/2016

Background of Assessment

Council's Development Engineer raised several issues regarding the proposed stormwater system (see condition *B5.10 Stormwater Discharge into Public Drainage Systems*). Council requested an amended stormwater plan to address these issues.

The applicant provided the following documentation in response to the request:

- Stormwater Plans, prepared by Ibrahim Stormwater Consultants, sheets 1 to 3, dated 12/03/2018
- Landscape Plan, prepared by Dapple Designs, LP 01, dated 14/03/2018
- Architectural Plans, prepared by Clarendon Homes, sheets 1 to 24. Various drawings were updated to reflect an amended hydraulic design. These plans do not have a revised date.

Council's Development Engineer reviewed the amended stormwater plan and concluded it to be unsatisfactory - see condition *C6.1 Integrated Water Cycle Management* for complete comments.

The applicant provided additional stormwater management documents and requested Council to take into consideration the following documents:

- Flushmax brochure produced by Australian Drainage Modules Pty Ltd
- Stormwater Chamber brochure produced by SPEL Environmental
- Stormwater Plan titled 'Atlantis Single Matrix/Flo-Tank/D-Raintank Module - Part No. 70003_Flo3', prepared by Atlantis, not dated

Council's Development Engineer reviewed the above information and concluded it to be unsatisfactory - see condition *C6.1 Integrated Water Cycle Management* for complete comments.

5.0 NOTIFICATION

N0535/17 was notified from 04/12/2017 to 11/01/2018 to adjoining property owners in accordance with council's notification policy. During the notification period, zero (0) submissions were received.

6.0 ISSUES

- C1.3 View Sharing
- C1.4 Solar Access
- C1.5 Visual Privacy
- C6.1 Integrated Water Cycle Management
- D16.1 Character as viewed from a public place
- D16.5 Landscaped Area for Newly Created Individual Allotments
- D16.7 Side and rear building lines

7.0 COMPLIANCE TABLE

- T - Can the proposal satisfy the technical requirements of the control?
- O - Can the proposal achieve the control outcomes?
- N - Is the control free from objection?

Control	Standard	Proposal	T	O	N
Pittwater Local Environmental Plan 2014					
1.9A Suspension of covenants, agreements and instruments			Y	Y	Y
Zone R3 Medium Density Residential			Y	Y	Y

Control	Standard	Proposal	T	O	N
4.3 Height of buildings	Height Map K - Maximum 10.5m	The proposed height is 8.674m and complies with the maximum requirement.	Y	Y	Y
5.10 Heritage conservation			Y	Y	Y
6.1 Warriewood Valley Release Area			Y	Y	Y
7.1 Acid sulfate soils		Class 5	Y	Y	Y
7.2 Earthworks			Y	Y	Y
7.6 Biodiversity protection			Y	Y	Y
7.7 Geotechnical hazards			Y	Y	Y
7.10 Essential services			Y	Y	Y
Pittwater 21 Development Control Plan 2014					
A1.7 Considerations before consent is granted			Y	Y	Y
A4.16 Warriewood Valley Locality			Y	Y	Y
B1.4 Aboriginal Heritage Significance			Y	Y	Y
B3.1 Landslip Hazard			Y	Y	Y
B3.6 Contaminated Land and Potentially Contaminated Land			Y	Y	Y
B3.11 Flood Prone Land			Y	Y	-
B4.1 Flora and Fauna Conservation Category 1 Land			Y	Y	Y
B4.3 Flora and Fauna Habitat Enhancement Category 2 Land			Y	Y	Y
B5.6 Rainwater Tanks - Water Supply		See C6.1 <i>Integrated Water Cycle Management</i>	N	N	Y
B5.9 Stormwater Management - Water Quality - Other than Low Density Residential		See C6.1 <i>Integrated Water Cycle Management</i>	N	N	Y
B5.10 Stormwater Discharge into Public Drainage System		See C6.1 <i>Integrated Water Cycle Management</i>	N	N	Y
B5.12 Stormwater Drainage Systems and Natural Watercourses		See C6.1 <i>Integrated Water Cycle Management</i>	N	N	Y
B5.14 Stormwater Drainage Easements (Public Stormwater Drainage System)		See C6.1 <i>Integrated Water Cycle Management</i>	N	N	Y
B6.3 Off-Street Vehicle Parking Requirements		The proposal contains two off-street parking spaces	Y	Y	Y
B8.1 Construction and Demolition - Excavation and Landfill			Y	Y	Y

Control	Standard	Proposal	T	O	N
B8.2 Construction and Demolition - Erosion and Sediment Management			Y	Y	Y
B8.3 Construction and Demolition - Waste Minimisation			Y	Y	Y
B8.4 Construction and Demolition - Site Fencing and Security			Y	Y	Y
B8.5 Construction and Demolition - Works in the Public Domain			Y	Y	Y
B8.6 Construction and Demolition - Traffic Management Plan			Y	Y	Y
C1.1 Landscaping			Y	Y	Y
C1.3 View Sharing		See 8.0 Discussion of Issues	Y	Y	Y
C1.4 Solar Access		See 8.0 Discussion of Issues	Y	Y	Y
C1.5 Visual Privacy		See 8.0 Discussion of Issues	Y	Y	Y
C1.6 Acoustic Privacy			Y	Y	Y
C1.7 Private Open Space			Y	Y	Y
C1.9 Adaptable Housing and Accessibility			Y	Y	Y
C1.12 Waste and Recycling Facilities			Y	Y	Y
C1.13 Pollution Control			Y	Y	Y
C1.23 Eaves			Y	Y	Y
C1.24 Public Road Reserve - Landscaping and Infrastructure			Y	Y	Y
C6.1 Integrated Water Cycle Management		See 8.0 Discussion of Issues	N	N	Y
C6.7 Landscape Area (Sector, Buffer Area or Development Site)		See D16.5 Landscaped Area for Newly Created Individual Allotments	Y	Y	Y
D16.1 Character as viewed from a public place		See 8.0 Discussion of Issues	Y	Y	Y
D16.5 Landscaped Area for Newly Created Individual Allotments	Minimum 45% landscaped area for lots greater than or equal to 14.0m	See 8.0 Discussion of Issues	Y	Y	Y
D16.6 Front building lines	Minimum requirement of 6.5m to front boundary	Front boundary setback is approximately 8.527m	Y	Y	Y
D16.7 Side and rear building lines		See 8.0 Discussion of Issues	N	Y	Y
D16.9 Solar access			Y	Y	Y
D16.10 Private and Communal Open Space Areas			Y	Y	Y

Control	Standard	Proposal	T	O	N
D16.11 Form of construction including retaining walls, terracing and undercroft areas			Y	Y	Y
D16.12 Fences		No new fencing proposed	Y	Y	Y
D16.13 Building colours and materials			Y	Y	Y
D16.14 Pets and companion animals			Y	Y	Y
State Environmental Planning Policies and other					
SEPP No 44 - Koala Habitat Protection			Y	Y	Y
SEPP (Building Sustainability Index: BASIX) 2004			Y	Y	Y
EPA Act 1979 No 203 section 147 Disclosure of political donations and gifts			Y	Y	Y

8.0 DISCUSSION OF ISSUES

- **C1.3 View Sharing**

A site inspection of the subject site was conducted on 21/03/2018. There is considered no unreasonable view loss as a result of the proposed dwelling. The subdivision pattern of Cherry Lane shows Lot 16 will retain views of trees and vegetation to the west. A dwelling constructed on Lot 23 may lose views of trees and vegetation to the west, however this is to be expected given Lot 15 is directly west of Lot 23.

- **C1.4 Solar Access**

The proposed dwelling does not lead to unreasonable overshadowing to surrounding sites. At 9:00AM to 12:00PM, there is overshadowing to proposed Lot 16 to the south. Between 12:00PM to 3:00PM, the shadow from the dwelling moves from the south of the subject site and then on to proposed Lot 23 to the east. The level of overshadowing to proposed Lots 16 and 23 do not obstruct solar access to future living areas and private open spaces by more than three (3) hours and therefore meets the requirements of this control.

- **C1.5 Visual Privacy**

There are considered to be no unreasonable visual privacy impacts as a result of the proposal. The dwelling is adequately set back from each boundary. There is no unreasonable overlooking to adjoining sites from the first floor.

- **C6.1 Integrated Water Cycle Management**

Council's Development Engineer provided the following comments on 06/02/2018:

The development is proposed within an approved multi lot subdivision which has a specific condition for water management facilities to be installed in accordance with the Water Management Report prepared by Civil Certification (Issue 6, dated May 2016) and in Addendum 6 to the Water Management Report (Civil Certification Letter dated 7 June 2016). These facilities include rainwater tanks, on-site detention tanks and rain gardens.

With regard to the above, the applicant must provide a Civil Engineering design and certification demonstrating that the submitted hydraulic design for the development has addressed the requirements of the above mentioned water management report and addendum.

A review of the submitted hydraulic design indicates that the required rain garden has been omitted from the design which is not acceptable. Also the proposed detention tank is a cell type system which is also not acceptable as these systems cannot be adequately accessed for future maintenance. In this regard, the hydraulic design is to be amended to incorporate the required rain garden and the detention tank is to be either a masonry or cast in-situ tank with access grates to ensure the tank can be adequately inspected and maintained.

Once the above information is received and the plans amended to suit, final assessment of the application will be undertaken.

This information was relayed to the applicant and an amended stormwater plan addressing the above mentioned issues was requested.

The applicant provided an amended stormwater plan and the following information on 15/03/2018:

- Stormwater Plans, prepared by Ibrahim Stormwater Consultants, sheets 1 to 3, dated 12/03/2018
- Landscape Plan, prepared by Dapple Designs, LP 01, dated 14/03/2018
- Architectural Plans, prepared by Clarendon Homes, sheets 1 to 24. These drawings reflect the amended hydraulic design. These plans do not have a revised date.

Council's Development Engineer provided the following comments on 19/03/2018

The additional drainage information submitted by the applicant has been reviewed and is not satisfactory. The drawings do not provide sufficient information including dimensions to ensure that the required 5 square metre rain garden has been provided in the design. Also the proposed on-site stormwater detention (OSD) tank system is not acceptable as the proprietary system shown is not a sealed tank i.e. the base is covered with geotextile fabric and there is insufficient access into the tank for future maintenance.

The proposed development is not supported due to insufficient information to assess the water management for the site in accordance with Council's DCP and the Water Management Report adopted for the subdivision.

The applicant provided further additional information in the following:

- Flushmax brochure produced by Australian Drainage Modules Pty Ltd
- Stormwater Chamber brochure produced by SPEL Environmental
- Stormwater Plan titled 'Atlantis Single Matrix/Flo-Tank/D-Raintank Module - Part No. 70003_Flo3', prepared by Atlantis, not dated

Council's Engineer reviewed the above information and deemed it to be unsatisfactory as the stormwater system does not provide an adequate detention tank.

When taking into the assessment conducted by Council's Development Engineer, the proposal cannot be supported as it has not provided sufficient information and does not meet condition B.24 within consent N0209/14/S96/3

- **D16.1 Character as viewed from a public place**

The proposed dwelling does not appear excessive when viewed from a public place, however there are issues with the amount of landscaped area provided on site. See *D16.5 Landscaped Area for Newly Created Lots*

- **D16.5 Landscaped Area for Newly Created Individual Allotments**

The definition of landscaped area according to the PLEP 2014 is as follows:

landscaped area means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.

The minimum required landscaped area is 45% of this site. The landscape plan (prepared by Dapple Designs, LP01, dated 14/03/2018) indicates a landscaped area of 277.4m² (45.932%).

The landscape plan appears to include the pebble/decorative gravel area within their landscape calculation. This is not considered to fall within the definition of landscaped area.

The landscaped area was calculated to be approximately 241.69m² (40.01%). The proposal could comply if the pebble/decorative was included as landscaped area. To consider the pebble/decorative area as landscaping is considered acceptable. Therefore the landscaped area amounts to 45% of the site area. The site contains adequate landscaped area within the low density residential setting of Cherry Lane.

- **D16.7 Side and rear building lines**

The proposal provides a 3.5m setback to the eastern boundary and 3.3m setback to the western side boundary and therefore meets all side setback controls.

The proposal provides a 2.0m setback to the northern rear boundary and therefore non-compliant with the 4.0m rear setback requirement. The setback distance from the rear boundary is considered acceptable. The position of the dwelling would not lead to a breach of privacy for the adjoining lot to the north. There is no adverse overshadowing impact or view loss as a result of the non-compliance. The dwelling does not appear visually dominant as a result of the non-compliance when viewed from the street or neighbouring lots.

9.0 CONCLUSION

The Development Application has been assessed in accordance with the provisions of Section 79C of the Environmental Planning and Assessment Act 1979, Pittwater Local Environmental Plan, Pittwater 21 Development Control Plan and other relevant policies as listed at item 3.0.

The proposal has been found to be inconsistent with the outcomes of the relevant stormwater controls of P21 DCP. As a result of these considerations the proposal is recommended for refusal.

RECOMMENDATION OF DEVELOPMENT OFFICER/PLANNER

That Council, as the consent authority, pursuant to section 80 of the Environmental Planning and Assessment Act, 1979, refuse Development Application N0535/17 for a new dwelling for the reasons contained in the assessment report.

Report prepared by

Christopher Nguyen
PLANNER

Date: 10 May 2018

