



# Statement of Environmental Effects

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## Construction of a Dwelling and Associated Site Works

Proposed Lot 2 in Lot 6 DP 7369961

Proposed Lot 2, 10 Fern Creek Road, Warriewood NSW 2102

Prepared for: Skycorp Australia

CPS Project No: D458

Date: December 2021

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## 1. Introduction

The Statement of Environmental Effects ('SEE') has been prepared to accompany a Development Application ('DA') for the construction of a dwelling house and associated site works at proposed Lot 2, 10 Fern Creek, Warriewood.

This SEE describes the site, its environs and the proposed development, and includes an assessment of the proposal pursuant to Section 4.15 of the Act and the relevant provisions of the Environmental Planning and Assessment Regulation 2000 ('the Regulations').

The subject site (Lot 2) will be created from the recent subdivision N0540/15 for 'Creation of a twenty (20) lot community title subdivision and construction of associated infrastructure and access roads' at 10 Fern Creek Road, Warriewood, with subdivision works currently being completed and registered thereafter.

The subject site is zoned R3 Medium Density Residential under the *Pittwater Local Environmental Plan 2014* ('PLEP 2014'), Dwelling houses are a permissible form of development with consent in this zone. The site is located within Sector 901A of the Warriewood Valley Urban Release Area and is generally consistent with the *Pittwater 21 Development Control Plan* ('P21 DCP'). Non compliances are the garage dimensions, excavation and landfill limits, minimum landscaped area, side setbacks, balcony orientation, and fencing, all of which are justifiable and are discussed in further detail in Section 4.4.1 of this SEE.

Therefore, CPS recommends that Northern Beaches Council support the subject application, subject to conditions of consent.

## 2. The Site

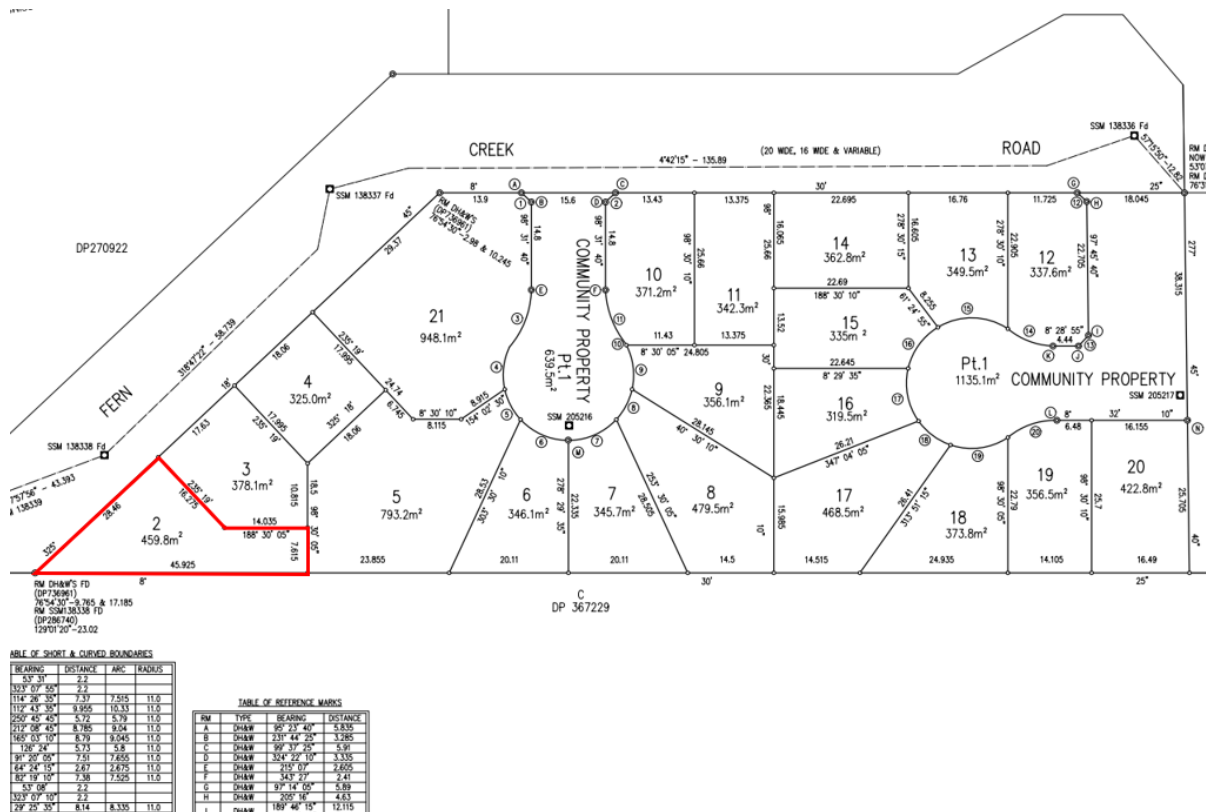
### 2.1 Site Description

The site is identified as proposed Lot 2 at 10 Fern Creek Road with current legal description as Lot 6 in Deposited Plan 736961, as seen in **Figure 1**.

The subject site is located in the suburb of Warriewood, approximately 1.8 kilometres southwest of the Mona Vale town centre and 22 kilometres north-east of the Sydney Central Business District ('CBD'). The site is located within the Northern Beaches (formerly Pittwater) Local Government Area ('LGA'). Refer to **Figure 3** for a locality map of the subject site.

The site is irregular in shape and has an area of 459.8m<sup>2</sup> with a frontage of 28.46m to Fern Creek Road. The site has a slope of approximately 6.4m over a distance of 36m from the south-western road frontage (RL31.30) to the north-eastern corner (RL24.90). This results in a site gradient of 1:6 (Source: Survey Plan).

The site is currently vacant from recent subdivision works N0540/15.

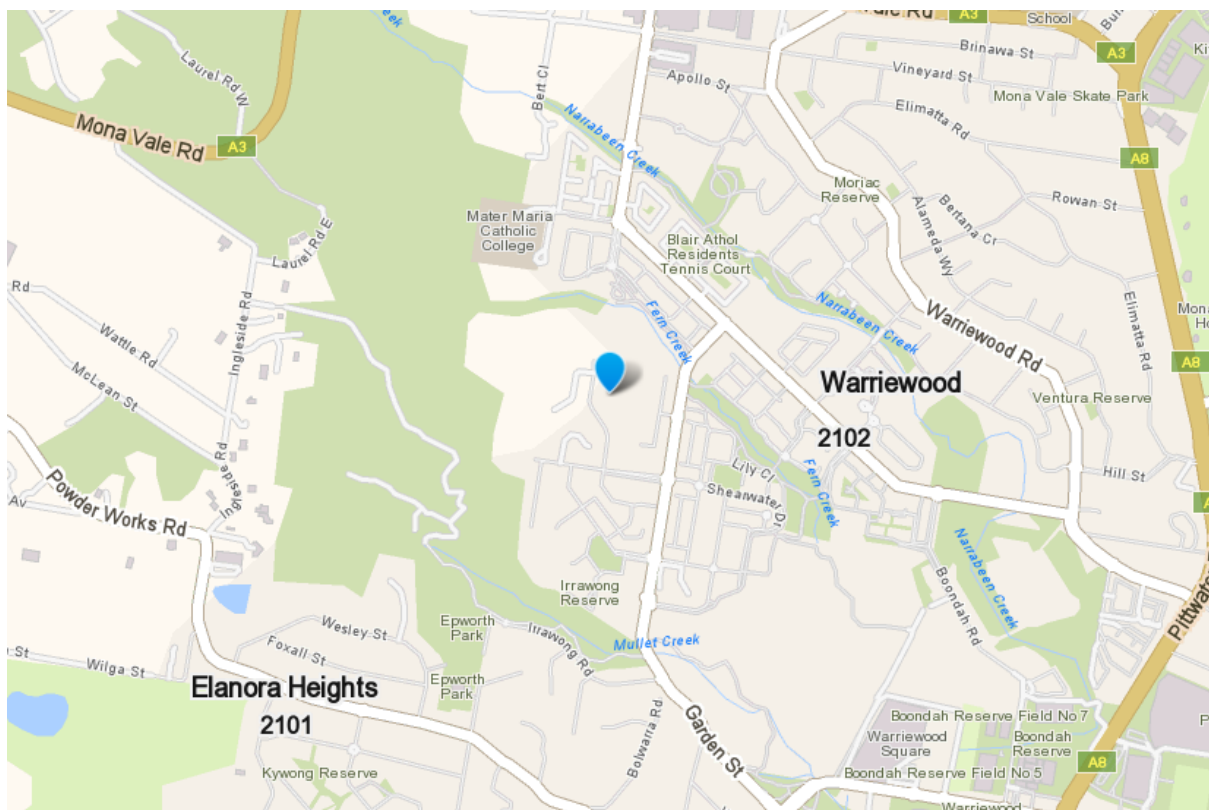


**Figure 1** - Map of recent subdivision under N0540/15, subject site outlined in red

Source: N0540/15 subdivision plan



**Figure 2** – Aerial view of subject site outlined in red  
Source: Nearmap (04/10/2021)



**Figure 3** – Locality map, subject site identified by the blue pin  
Source: whereis.com



## 2.2 Site History

The approval history on the site is summarised below:

N0540/15	Creation of a twenty (20) lot community title subdivision and construction of associated infrastructure and access roads
N0460/16	Construction of a residential flat building, comprising thirteen (13) dwellings, on a yet to be created lot (Lot 21)
MOD2018/0073	S4.55 Modification of consent N0460/16 for the construction of a residential flat building comprising thirteen (13) dwellings on a yet to be created lot (Lot 21)
MOD2018/0376	S4.55 Modification of consent N0540/15 granted for a twenty (20) lot community title subdivision and construction of associated infrastructure and access roads

The works approved pursuant to development consent (N0540/15) for a twenty 20 lot community title subdivision and construction of associated infrastructure and access roads have commenced and are nearing completion and is noted that the majority of works associated with N0540/15 and the subsequent MOD2018/0376 confirmed by the issuance of the following construction certificates:

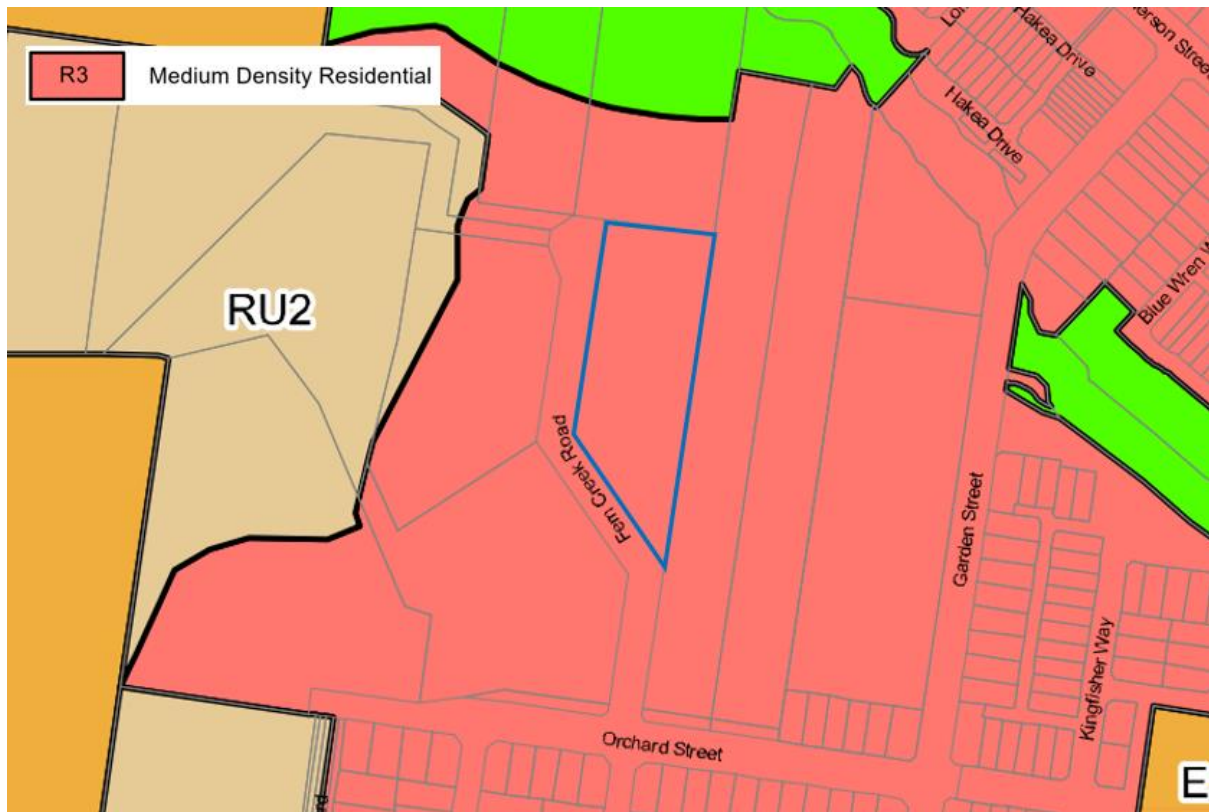
CC0146/17	Demolition of existing structures and the establishment of erosion and sediment control measures in accordance with plans by Northtop
CC0197/17	Subdivision works & landscaping
CC0198/17	Signage and linemarking plans

The subdivision certificate is to be lodged with Council within the processing weeks of submitting this SEE and is expected to be registered shortly thereafter.

Discussions were had with Council's Duty Planner on the 24<sup>th</sup> of August 2021 as to whether a DA could be lodged over the parent lot prior to the subdivision being registered. It was confirmed by the Duty Planner that Council will accept an application over the parent lot prior to registration of the subdivision.

## 2.3 Adjoining Development and Surrounding Locality

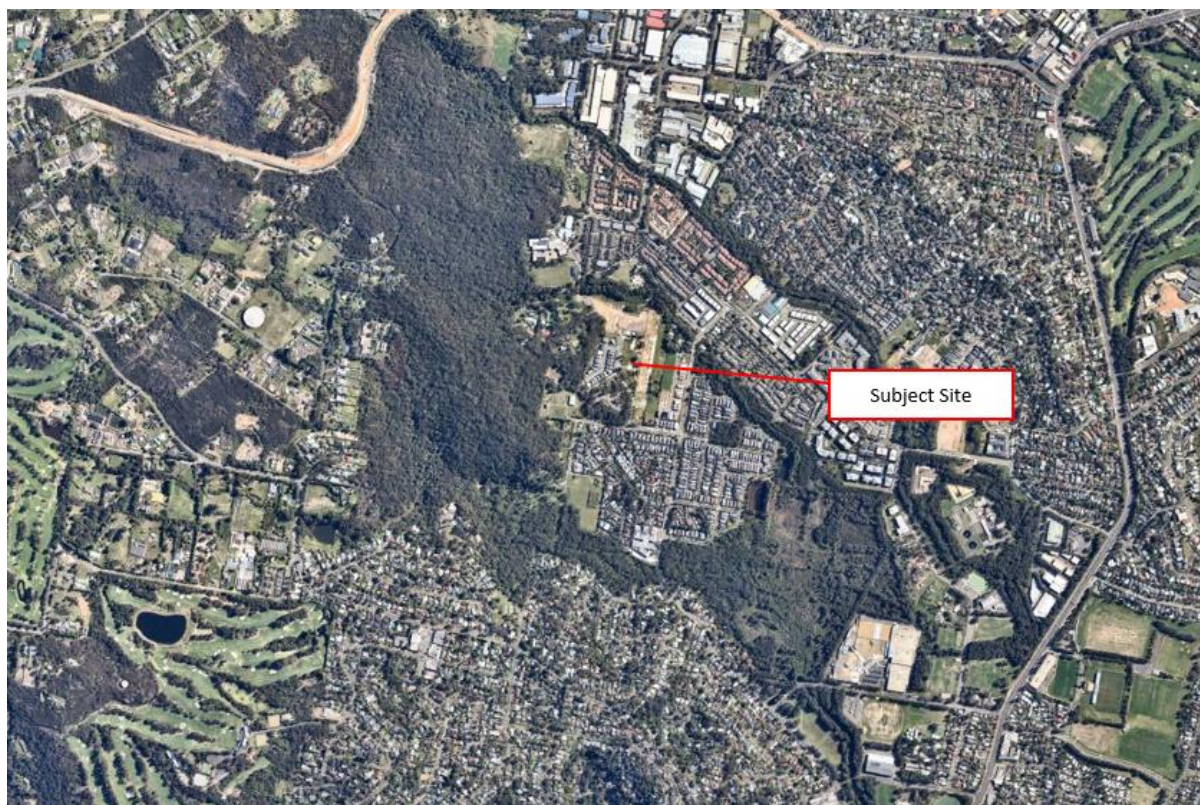
The site and its surroundings are zoned R3 Medium Density Residential under the PLEP 2014, as seen in *Figure 4*.



**Figure 4** - An extract of the PLEP 2014 zone map extract; the location of subject site is identified by the blue border.  
Source: legislation.nsw.gov.au

The site is located within the Warriewood Valley locality (**Figure 3**) which is a largely residential neighbourhood with significant sections of greenfield development occurring. Development in the locality comprises a range of residential development including large rural styled lots, dwelling houses, semi-detached dwellings, attached dwellings, and multi dwelling housing developments. There are also a number of vacant allotments in the surrounding area following the completion of a number of residential subdivisions (**Figure 1**).





**Figure 5** – Wider locality map of the subject site.  
Source: Nearmap (4/10/2021)

### 3. Proposed Development

The proposed development consists of the construction of a new two (2) storey dwelling house with associated landscaping and site works.

The proposed development is to be undertaken pursuant to the provisions of the PLEP 2014 and the P21 DCP. The proposed development will also have regard to the applicable environmental planning instruments, including but not limited to the *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*.

Specific details of the proposed development are addressed under the following headings.

#### 3.1 Building Works

The following information provides a summary of the construction works associated with the proposed dwelling house.

##### 3.1.1 Ground Floor

The ground floor of the proposed dwelling house comprises of a bedroom, open plan dining/living/kitchen area, laundry, pantry and integrated double space garage. The main pedestrian entrance is located on the front façade of the dwelling, between the bedroom and the garage. The bedroom is situated in the western side of the ground floor and includes a private powder room. Due to the topography of the site, the living/dining/kitchen area is connected to the rest of the ground floor by a small set of stairs. The dining and living areas are located to the rear and access to the private open space is granted via sliding glass doors. The first floor is accessed via a stairwell positioned on the eastern wall, above the pantry.

##### 3.1.2 First Floor

The first floor of the proposed dwelling house comprises of two (2) bedrooms including a master bedroom, as well as a family room, office and bathroom. The master bedroom is located in the northern corner of the first floor and includes a walk in robe, en-suite bathroom and private balcony that faces north-westward. Bedroom 2 is situated to the west and includes its own private balcony that faces Fern Creek Road to the west. The office, family room and bathroom are all positioned in the south-eastern corner.

##### 3.1.3 External Area

The external area of the proposed development comprises of a pedestrian pathway from the road to the main entrance of the dwelling, as well as a driveway which provides vehicular access to the garage oriented towards the street.

A pathway travels within the side setbacks from the front to the rear of the site, passing the bin storage area. From here the pathway reaches the rear yard where it meets with the rear private open space area that is located adjacent to the open plan living / dining / kitchen area.

### 3.1.4 Material and Finishes

Building materials and finishes have been carefully selected to ensure a contemporary architectural design that is consistent and adds value to the overall streetscape. This has been achieved through the use of complementary and high quality materials comprised of the following:

- Colorbond metal roof in colour ‘Monument’;
- Façade comprising of bricks in colour ‘Brahman Granite’, render and paint in colour ‘Wayward Grey’, and 255mm wide weatherboards in colour ‘Stria’; and
- Balcony balustrades comprised of stainless steel with glass inserts.

**Figure 6** below provides an extract of the submitted schedule of colours and materials.



**Figure 6** - Proposed materials and finishes

Image Source: PTI Architecture

## 3.2 Landscaping

The development features high quality landscaping with two (2) trees proposed for removal to accommodate the proposal. Two (2) “*Angophora costata*” are recommended for removal in the Arborist Report prepared by Urban Arbor. It is noted that a “*Angophora costata*” and a “*Eucalyptus haemastoma*” are located on site, but are deemed to be retained.

To offset this environmental loss, the proposal includes six (6) variants of trees with a mature height range of 6m to 10m, as well as shrubbery be planted along all boundaries of the subject site to increase

visual and acoustic privacy. Outdoor recreation areas and the connecting pathways will comprise of timber terrace and stepping pavers that complement those used on the dwelling house.

Refer to the Landscape Plans prepared by Site Image Landscape Architects which accompany this application for further details.

### 3.3 Drainage

Refer to the Stormwater Management Plans prepared by CAM Consulting Structural & Civil Engineers which accompany this application.

### 3.4 Essential Services

The subject site is provided with the required essential services such as water, electricity, sewerage, gas, etc. as completed by the residential subdivision works.

## 4. Planning Assessment

### 4.1 Section 4.15(1) - Matters for Consideration

In accordance with Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*, the Consent Authority is to take into consideration matters that are of relevance and that are the subject of the DA, specifically:

- (a) *the provisions of:*
  - (i.) *any environmental planning instrument, and*
  - (ii.) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
  - (iii.) *any development control plan, and*
  - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
  - (iv.) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*
  - (v.) *(Repealed)**that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

With regard to the above, the key environmental planning instruments and development control plans that are of relevance to the development are as considered within Part 4 of this document.

### 4.2 Environmental Planning Instruments – Section 4.15(1)(a)(i)

#### 4.2.1 State Environmental Planning Policy No. 55 – Remediation of Land

*State Environmental Planning Policy No. 55 – Remediation of Land* applies to the site. Clause 7 requires a consent authority to consider the contamination status of the land and be satisfied the land is, or will be made, suitable for the purpose for which the development is proposed to be carried out.

The subject site and surrounding sites are located within a recently-established residential subdivision (i.e. Development Consent Nos. N0540/15). Council considered all relevant SEPPs as part of its assessments of those proposals, and the approvals included conditions that required that steps be taken to mitigate any contamination and to make the allotments within the subdivision suitable for development. There is currently no information to suggest that the subject site has become contaminated.



With regard to the above, the site is considered to be suitable in its present state for the proposed development, and no further investigations of site contamination is warranted.

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

The proposed development is identified as a BASIX affected building therefore requires a BASIX certificate to accompany the DA. As such a BASIX certificate has been prepared illustrating the development meets the required sustainability targets and accompanies the DA package to satisfy the provisions of this SEPP are satisfied.

#### 4.2.3 State Environmental Planning Policy (Vegetation in Non-rural Areas) 2017

The proposal includes the removal of two (2) trees, both being a “*Angophora costata*”, as recommended in the accompanying Arborist Report (Tree ID 17 and Tree ID 19).

It is noted that a “*Angophora costata*” (Tree ID 15) and a “*Eucalyptus haemastoma*” are located on site, but are deemed to be retained with protective fencing.

Refer to the accompanying Arboricultural Impact Assessment Report prepared by Urban Arbor for more detail.

#### 4.2.4 Pittwater Local Environmental Plan 2014

##### Permissibility and zone objectives

The subject site located within an R3 Medium Density Residential zone under PLEP 2014. Dwelling houses are a permissible form of development in this zone.

The proposal will also satisfy the objectives of the R3 zone, which for reference are as follows:

- *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 proposal is for a form of residential development that is consistent (in terms of height and scale) with the surrounding medium density residential area. The proposal does not affect the ability of surrounding sites to provide facilities and/or services to meet the day to day needs of residents. Further, the proposal is of a modest scale, a low intensity use of the land, and for residential accommodation purposes only.

As such, the objectives of the R3 zone will be satisfied.

##### Development standards



The following table provides an assessment of the proposed development against the relevant provisions of PLEP 2014.

Pittwater Local Environmental Plan 2014							
Clause	Requirement	Proposed	Complies				
4.3 Height of buildings	(3) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.	<b>Maximum permitted height:</b> 10.5 metres <b>Maximum proposed height:</b> 9.34 metres	Yes				
6.1 Warriewood Valley Release Area	(2) This clause applies to the land in the Warriewood Valley Release Area.	Noted.	-				
	(3) Development consent must not be granted for development on land in a buffer area or sector or at an address mentioned in Column 1 of the table to this clause unless the consent authority is satisfied that the total number of dwellings shown opposite that buffer area, sector or address in Column 2 of that table will be erected. <table border="1"><tr><th>Column 1</th><th>Column 2</th></tr><tr><td>Sector 901A</td><td>Not more than 190 Lot less than 154</td></tr></table>	Column 1	Column 2	Sector 901A	Not more than 190 Lot less than 154	The number of dwellings within the sector are partially governed by the number of allotments that are approved within that area. The proposal is for a single dwelling, which will not influence the total number of dwellings within the Sector.	Yes
	Column 1	Column 2					
Sector 901A	Not more than 190 Lot less than 154						
(4) Development consent must not be granted for development on land to which this clause applies unless the consent authority is satisfied that the proposed development will not have any significant adverse impact on any of the following— (a) opportunities for rehabilitation of aquatic and riparian vegetation, habitats and ecosystems within creek line corridors, (b) the water quality and flows within creek line corridors, (c) the stability of the bed, shore, and banks of any watercourse within creek line corridors.	The proposed development will not adversely affect water quality and flows within the creek line corridor, nor the stability of the creek bed, shore and/or banks of Fern Creek.	Yes					
7.1 Acid sulfate soils	(2) Development consent is required for the carrying out of works described in the table to this subclause on land shown on the Acid Sulfate Soils Map as being of the class specified for those works.	The subject site is mapped as containing Class 5 acid sulphate soils. Including footings, excavation on the site is a maximum 2.22 metres deep, and will not affect the water table. An ASSMP is therefore not required.	Yes				
	(3) Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils	See above.	N/A				

	Manual and has been provided to the consent authority.		
7.2 Earthworks	<p>(2) Development consent is required for earthworks unless—</p> <p>(a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or</p> <p>(b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.</p>	Noted.	-
	<p>(1) In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—</p> <p>(a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,</p> <p>(b) the effect of the development on the likely future use or redevelopment of the land,</p> <p>(c) the quality of the fill or the soil to be excavated, or both,</p> <p>(d) the effect of the development on the existing and likely amenity of adjoining properties,</p> <p>(e) the source of any fill material and the destination of any excavated material,</p> <p>(f) the likelihood of disturbing relics,</p> <p>(g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,</p> <p>(h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,</p> <p>(i) the proximity to and potential for adverse impacts on any heritage item, archaeological site or heritage conservation area.</p>	<p>The site is not subject to a geotechnical hazard. Including footings and stormwater works, a maximum 2.22 metres of excavation is proposed. Such excavation depths will not have detrimental impacts on drainage and soil stability.</p> <p>Any materials to be removed from the site would be clean material, noting that consent conditions for the subdivision was required to consist of clean fill only.</p> <p>The location of the depth of the earthworks will not raise ground levels to a point where they will adversely affect surrounding sites.</p> <p>There are no known relics or heritage items around the site that will be affected by the proposed earthworks.</p>	Yes
7.10 Essential services	Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements	Essential services are already obtainable at the site. The proposal includes works that will provide all relevant utilities and adequate vehicular access.	Yes

	have been made to make them available when required— (a) the supply of water, (b) the supply of electricity, (c) the disposal and management of sewage, (d) stormwater drainage or on-site conservation, (e) suitable vehicular access.		
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### 4.3 Draft Environmental Planning Instruments - Section 4.15(1)(a)(ii)

#### Draft Remediation of Land State Environmental Planning Policy

The Draft SEPP is a relevant matter for consideration as it is an environmental planning instrument that has been placed on exhibition. The explanation of Intended Effects accompanying the draft SEPP advises:

*As part of the review of SEPP 55, preliminary stakeholder consultation was undertaken with Councils and industry. A key finding of this preliminary consultation was that although the provisions of SEPP 55 are generally effective, greater clarity is required on the circumstances when development consent is required for remediation work.*

The draft SEPP does not seek to change the requirement for consent authorities to consider land contamination in the assessment of DAs. As discussed within the SEPP 55 assessment above, the potential for contamination of the development area has been considered, and that the site is suitable for the proposed development, subject to recommended conditions of consent.

### 4.4 Development Control Plans - Section 4.15(1)(a)(iii)

#### 4.4.1 Pittwater 21 Development Control Plan

The following table provides an assessment of the proposed development against the relevant provisions of the P21 DCP.

Pittwater 21 Development Control Plan		
Section B – General Controls		
Requirement	Proposed	Complies
<b>B6 Access and Parking</b>		
<b>B6.3 Off-Street Vehicle Parking Requirements</b>		
The minimum number of vehicle parking spaces to be provided for off-street parking is as follows for dual occupancies, dwelling houses, secondary dwellings, exhibition homes, rural workers' dwellings and tourist and visitor accommodation:	2 spaces provided in the integrated double space garage.	Yes

Number of bedrooms per dwelling but not a secondary dwelling	Parking requirements per dwelling			
• 1 bedroom	• 1 space			
• 2 bedrooms or more	• 2 spaces			
Minimum dimensions of internal space for on-site parking are:			The garage dimensions are 5.5m x 5.5m. This is compliant with the Australian Standards and is deemed acceptable.	No – Justifiable
Single car parking spaces on hard stand and Single Carport	2.4 metre x 5.5 metre with 0.3m minimum clear space each side for access to doors			
Enclosed garage(internal dimension)	3.0 metre x 6.0 metre, with 2.4 metre minimum width entry			
Multiple side by side carport and enclosed garage(internal dimension)	5.7 metre x 6.0 metre for 2 adjacent vehicles + 2.7 metre width for each additional vehicle with, 2.4 metre minimum width entry per vehicle space			

## B8 – Site Works Management

### B8.1 Construction and Demolition - Excavation and Landfill

Excavation and landfill on any site that includes the following:

- Excavation greater than 1 metre deep, the edge of which is closer to a site boundary or structure to be retained on the site, than the overall depth of the excavation;
- Any excavation greater than 1.5 metres deep below the existing surface;
- Any excavation that has the potential to destabilize a tree capable of collapsing in a way that any part of the tree could fall onto adjoining structures (proposed or existing) or adjoining property;
- Any landfill greater than 1.0 metres in height; and/or
- Any works that may be affected by geotechnical processes or which may impact on geotechnical processes including but not limited to constructions on sites with low bearing capacity soils,

must comply with the requirements of the Geotechnical Risk Management Policy for Pittwater (see Appendix 5) as adopted by Council and details submitted and certified by a Geotechnical Engineer and/or Structural Engineer with the detail design for the Construction Certificate.

2.22m of cut is proposed which exceeds the 1.5m limit. This is justifiable due to the steep topography of the site. The building footprint has been positioned to minimise the cut and fill needed for this development.

0.61m of fill proposed.

No – Justifiable

### B8.3 Construction and Demolition - Waste Minimisation

Refer to the Waste Management Plan prepared by PTI Architecture.

## Section C – Development Type Controls

### C1 - Design Criteria for Residential Development

#### C1.9 Adaptable Housing and Accessibility

##### Adaptable Housing

The design of residential development shall meet the criteria of Australian Standard AS 4299:1995 Adaptable Housing as follows:

While this is a DA for a single dwelling and is not required to comply with this standard, it is noted that 19 DAs are being lodged concurrently for adjoining developments.

Yes

Development	% of adaptable dwellings (rounded up)	Minimum class under AS 4299:1995		
Residential development in Warriewood Valley not elsewhere identified in this table.	25	Class B	<p>This development is not an adaptable dwelling. However, five out of nineteen developments have an adaptable housing design should it need to be adopted for any future residents. Refer to the architectural plans for more.</p> <p>Therefore, 5/19 developments (26%) are capable of being adaptable dwellings and comply with this control.</p>	
<b>C1.12 Waste and Recycling Facilities</b>				
All development that is, or includes, demolition and/or construction, must comply with the appropriate sections of the Waste Management Guidelines and all relevant Development Applications must be accompanied by a Waste Management Plan.			Refer to the WMP submitted as part of this application.	Yes
<b>C1.13 Pollution Control</b>				
Residential development must be designed, constructed, maintained and used in a proper and efficient manner to prevent air, water, noise and/or land pollution.			The proposal has been designed to prevent avoidable pollution.	Yes
Developments must comply in all respects with the Protection of the Environment Operations Act 1997, and other relevant legislation.			To comply.	Yes
<b>C6 - Design Criteria for Warriewood Valley</b>				
<b>C6.1 Integrated Water Cycle Management</b>				
Refer to the Drainage Layout Plan prepared by CAM Consulting Structural & Civil Engineers.				
<b>C6.2 Natural Environment and Landscaping Principles</b>				
Refer to the Landscape Plan prepared by Site Image Landscape Architects.				
<b>C6.3 Ecologically Sustainable Development, Safety and Social Inclusion</b>				
<b>Designing for ESD</b> Development should be designed and located with consideration to orientation, ventilation, topography, vegetation, microclimate, adjoining development and landscape, that incorporates: <ul style="list-style-type: none"> <li>• passive solar building design;</li> <li>• a reduction in greenhouse gas emissions;</li> <li>• opportunities to monitor consumption performance, for example through the installation of SMART metering;</li> <li>• safe connections to the existing pedestrian/cycleway networks and public transport routes; and</li> <li>• principles of Universal Design.</li> </ul> Sub-metering of building services to enable individual tenancies to facilitate individual monitoring of consumption performance is required.			The design of the dwelling has accounted for the north/south orientation of the allotment, and sought to maximise both natural light and natural cross-ventilation through the building.	Yes
<b>Integration of CPTED</b> Development is designed to incorporate the following CPTED principles: <ul style="list-style-type: none"> <li>• Natural Surveillance</li> <li>• Access Control</li> <li>• Territorial Reinforcement</li> </ul>			The placement and design of the dwelling will enable active and passive surveillance of the driveway approach and adjoining road frontage.	Yes

<ul style="list-style-type: none"> <li>Space Management</li> </ul>		
<b>Universal Design and Adaptive Reuse</b> The principles of Universal Design must be integrated into new developments and the urban spaces surrounding, ensuring access and utility for people.	Not required in accordance with control C1.9 Adaptable Housing and Accessibility	N/A
<b>Section D – Locality Specific Development Controls</b> <b>D16 – Warriewood Valley Locality</b>		
<b>D16.1 Character as viewed from a public place</b>		
<b>Presentation to a public place</b> For the purpose of this control “public places” is considered to be areas within the public domain that are accessible to the general public, and may include roads and streets, the creekline corridor, parks and reserves.	Noted.	-
The facades of buildings presenting to any public place must address these public places, provide visual interest, have a street presence and incorporate design elements (such as roof forms, textures, materials, arrangement of windows, modulation, spatial separation, landscaping etc.) that are compatible with any design themes existing in the immediate vicinity. Blank facades that front public places are not supported.	The facade will positively contribute to the public domain.	Yes
Building function is to be expressed by the facade. Any building facade and front setback to a public place must incorporate at least two of the following design features: <ul style="list-style-type: none"> <li>pedestrian entry feature including a footpath;</li> <li>awnings or other features over windows;</li> <li>front entry feature or portico that highlights the location of the front door;</li> <li>front feature balconies on upper floors; and</li> <li>gables, dormer windows or the like that provide architectural interest to the roof form, visible from the street.</li> </ul>	Features that are incorporated into the design include: <ul style="list-style-type: none"> <li>pedestrian entry feature including a footpath;</li> <li>awnings or other features over windows;</li> <li>front entry feature or portico that highlights the location of the front door; and</li> <li>front feature balconies on upper floors.</li> </ul>	Yes
Clear visual connection must be achieved between the public place and the front setback/front façade of the building.	Clear visual connection from the public domain is provided.	Yes
Walls without articulation shall not have a length greater than 8 metres to any street frontage.	No unarticulated elements longer than 8 metres are proposed.	Yes
The bulk and scale of buildings must be minimised.	The bulk and scale of the building is considered satisfactory for a medium density zone.	Yes
Landscaping is to be integrated with the building design to screen and soften the visual impact of the built form. The height and scale of the landscaping in the setback area to the public place must be proportionate to the height and scale of the building.	Landscaping has been integrated into the development to soften its visual appearance, refer to the landscape plans which accompany this application.	Yes
<b>Concealment of building plant or communications equipment, services and servicing areas</b>	Any building services are to be concealed within the building.	Yes



General service facilities must be located underground or suitably concealed.				
Stormwater, sewer, gas, electrical or communication service pipe or conduit should not be visible from the public place including building facades (and balconies/carpark entry points) visible to any public place.			The development is to be connected to existing underground services.	Yes
Plant and equipment boxes, air conditioning units and lift over-runs are to be integrated internally into the design fabric of the built form of the building. All noise generating equipment such as mechanical plant rooms, mechanical equipment, air conditioning units, mechanical ventilation from car parks, driveway entry shutters, garbage collection areas or similar are to be located and designed to protect the acoustic privacy of workers, residents and neighbours. The location of air conditioning units shall be indicated on development assessment plans for approval at the time of Development Application lodgement. Council does not encourage air conditioning units on the roof of development.			All plant equipment is to be integrated into the development to avoid acoustic disturbance of adjoining sites.	Yes
Television antennas, satellite dishes and other telecommunications equipment must be minimised and screened from public view.			To comply.	Yes
Open and external storage areas, service/loading areas and garbage storage areas are to be screened from view from any public place and should not encroach on parking areas, driveways or landscaped areas.			External storage is not proposed. The scale of the development is such that loading/service areas are not required.	Yes
External storage areas are not to interfere with the amenity of the locality due to smell, fumes, smoke, vapour, steam, soot, ash, grit, oil, dust, or otherwise.			External storage areas are not proposed.	N/A
<b>Parking structures presentation</b>  Garages, carports and other parking structures including hardstand areas must not be the dominant site feature when viewed from a public place.			Onsite parking is to be contained within a double garage.  The element is a relatively small structure when compared to the remainder of the building.  With regard to the above, the car parking facilities will not be a dominant feature when viewed from the public domain.	Yes
<b>D16.4 Water Management for individual allotments</b> Not applicable, as the site is not within an identified sector/buffer area to which the controls apply.				
<b>16.5 Landscaped Area for Newly Created Individual Allotments</b>				
<b>Minimum Landscaped Area Requirements</b>  The total landscaped area on individual allotments is to be in accordance with the following requirements:			<b>Lot area:</b> 459.8m <sup>2</sup> <b>Required landscape area:</b> 45%, or 206.91m <sup>2</sup> <b>Proposed landscape area:</b> <ul style="list-style-type: none"> <li>Inclusive of 4m minimum areas: 144m<sup>2</sup></li> <li>Total landscape area: 212m<sup>2</sup> (46.11%)</li> </ul>	No – Justifiable
<b>Residential Development</b>	<b>Minimum of site area (%)</b>	<b>Minimum dimensions (m)</b>		

All other dwellings on lots greater than or equal to 14m wide	45	4m	Refer to the discussion of the variation below.
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As indicated above, the plans propose a notable (i.e. a 62.91m<sup>2</sup>) variation to the minimum landscaped area requirement.

Such variation has merit and should be supported by Council for the following reasons:

The landscaping character for recent dwellings in the locality including the subdivision on the opposite side of Fern Creek Road, known as Cherry Lane and previously known as 2 Fern Creek Road, is less than required by the P21 DCP under this control as dwellings have been constructed pursuant to Part 3 and 3C of the Codes SEPP. The Codes SEPP has a minimum landscape area less than the P21 DCP with minimum area as summarised in the table below. While the proposal is made pursuant to the P21 DCP via a DA and not via a CDC pursuant to the code SEPP the majority of dwellings in the area have been made pursuant to the Code SEPP and thus creating a character for the dwellings with landscaped areas significantly less than required by the P21 DCP.

Lot area	Minimum Landscape Area
200m <sup>2</sup> – 300m <sup>2</sup>	10%
>300m <sup>2</sup> – 450m <sup>2</sup>	15%
>450m <sup>2</sup> – 600m <sup>2</sup>	20%
>600m <sup>2</sup> – 900m <sup>2</sup>	30%
900m <sup>2</sup> – 1,500m <sup>2</sup>	40%
> 1,500m <sup>2</sup>	45%

Furthermore, dwellings approved by DA pursuant to P21 DCP in Cherry Lane also have a non-compliant landscaped areas including:

- 4 Cherry Lane (as approved by Council under REV2018/0012)
- 12 Cherry Lane (as approved by Council under DA2020/1009)

Further emphasising the landscape character of the area non-complaint with the P21 DCP.

As the site has an area of 459.8m<sup>2</sup>, if made pursuant to the Codes SEPP the landscape area would have been 20% rather than 45% as required by the P21 DCP. The proposal is consistent with the minimum landscape area of the Codes SEPP and thus is consistent with the landscape character of the broader locality and therefore considered to have merit and worthy for Council's support.

Further, a response to the objectives associated with the controls are contained within the following table:

Objective	Planning response:
Conservation of significant natural features of the site and contribution to the effective management of biodiversity.	There are no significant features on the site, nor would the variation have any impact on areas of biodiversity significance, noting the site's considerable distance from areas of environmental sensitivity.
Warriewood Valley achieves a unified and high quality landscape character that contributes to the sense of place.	The placement of landscaped areas on the site will facilitate high-quality landscaping that will positively contribute to the landscaped character of the area.
Landscaping promotes ecologically sustainable outcomes, maintaining and enhancing biological diversity and ecological processes.	The proposal will include predominately native landscaping that will not adversely affect local biodiversity and associated processes.

The area of site disturbance is minimised.	The site is a newly created allotment, therefore the development will not create excessive site disturbance.
Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.	The reduced landscaped area is offset by a stormwater system that has been designed to capture larger volumes of runoff. The variation will not result in larger volumes of stormwater runoff.
Landscaped areas should be predominately areas of deep soil.	The vast majority of the proposed landscaped areas (particularly along the east of the site) consists of larger deep soil areas; while such areas do not provide the minimum 4 x 4 metre dimensions required by the DCP, they are sufficient to support the establishment and growth of larger suitably-sized vegetation.
New development is blended into the streetscape and neighbourhood through the retention and enhancement of vegetation.	The layout and landscape design of the site will enable the establishment and growth of larger vegetation (such as Evergreen Ash ( <i>Fraxinus griffithii</i> ), Water Gum ( <i>Tristania laurina</i> ), and Tuckeroo ( <i>Cupaniopsis anacardioides</i> ), to both filter and soften the appearance of the proposed development from the public domain.
To ensure a reasonable level of privacy and amenity is provided within the development site and maintained to neighbouring properties.	Due to its modest height and scale, the development will not adversely affect the privacy and amenity of surrounding sites.

As such, there are sound planning justifications as to why the proposed landscape area variation can be supported. With regard to section 4.15(3A)(b) of the Act, as the objects of the controls are satisfied Council must also be flexible in applying such provisions. It is therefore submitted that the proposed landscaped area variation has merit, and it is requested that it be supported by Council.

#### D16.6 Front building lines

The following minimum front building lines shall apply:  
**All other dwellings but not Residential Flat Buildings or Multi Dwelling Housing fronting all other streets.**

- Minimum front setback to articulation zone (metres) from front boundary: 1.5m
- Minimum front setback to garage/carport (metres) from front boundary: 4m
- Minimum front setback to dwelling (metres) from front boundary: 3m

The proposed front setbacks are as follows:

- Garage: 4.5m
- Dwelling: 4.5m

Yes

#### D16.7 Side and rear building lines

The minimum side and rear building lines are subject to the incorporation of landscaping required under this DCP and adequate separation distances between buildings.

Noted. Landscaping is to be incorporated into the side setback areas.

Yes

In certain circumstances, setbacks greater than the minimum requirements detailed in the table below may be necessary to retain significant vegetation or to provide acceptable separation to the adjoining existing development.

Noted.

-

**Required setbacks:**

Side Setback

**Detached dwelling greater than 16m wide**

**Proposed side setbacks:**

**North-western side:**

No –  
Justifiable



<ul style="list-style-type: none"> <li>○ One side: 0.9m</li> <li>○ Other side 2.5m</li> </ul>	<ul style="list-style-type: none"> <li>• 0.2m to partially covered deck</li> <li>• 0.9m to the dwelling</li> </ul> <p><b>Eastern side:</b></p> <ul style="list-style-type: none"> <li>• 2m to the dwelling</li> </ul> <p>Due to the irregular shape of the allotment, the proposal does not comply with this control. The width of the allotment at the building line is not an accurate measurement of the width of the entire allotment as it is significantly larger at the building line, when compared to the rear of the site.</p> <p>The constraints of the site make it impractical for the side setback controls to be met in the design of the dwelling. However, the controls have been implemented as much as possible into the design of the development, with only minor non-compliances present.</p> <p>The rear private open space on the ground floor includes a paved area that includes a partially open roof and support beams that is setback 0.2m from the side boundary.</p> <p>This non-compliance is justifiable as the roof above the paved area is open and allows sunlight to pass through. Additionally, the bulk and scale of the proposal is not significantly impacted through this feature.</p> <p>It is noted that the building is setback 0.9m from the rear boundary.</p> <p>Given this reasoning, the non-compliance is considered acceptable.</p>	
<p><u>Rear Setbacks</u></p> <p><b>Front loaded lots greater than or equal to 20 m deep.</b></p> <ul style="list-style-type: none"> <li>○ 4m to ground level and 6m to upper level.</li> </ul>	<p><b>Proposed rear setback:</b></p> <p>The ground floor is setback 13m from the rear boundary.</p> <p>The first floor is setback 16m from the rear boundary.</p>	Yes
<p><b>D16.9 Solar access</b></p>		
<p><b>Solar access received by the proposed residential development:</b></p> <ul style="list-style-type: none"> <li>• Minimum solar access to windows to the principal living area between 9am and 3pm on June 21</li> <li>○ Residential development not elsewhere defined in this table: 2 hours</li> </ul>	<p>A sufficient amount of solar access is provided to the main outdoor areas, noting that the design of the building also affords large amounts of direct solar access into internal living areas.</p>	Yes

<ul style="list-style-type: none"> <li>Minimum solar access to private open space area between 9am and 3pm on June 21               <ul style="list-style-type: none"> <li>Residential development not elsewhere defined in this table: 2 hours</li> </ul> </li> </ul>	<p>The development will also afford more than two (2) hours of direct solar access to more than 50% of the private open space of dwellings on adjacent sites.</p> <p>Refer to solar access diagrams.</p>							
Solar collectors for hot water or electricity shall receive at least 6 hours of sunshine between 9am and 3pm during midwinter.	The proposal would not reduce the ability of existing/future developments on adjoining sites to obtain solar access for such features.	Yes						
Sunshine to clothes drying areas is to be maximised.	Suitable clothes drying areas are provided.	Yes						
<b>Impact of proposed development on existing adjoining residential development</b> Where the principal living area and private open space within an existing adjoining dwelling currently receives sunshine during midwinter, any proposed adjacent development is not to reduce that solar access below three (3) hours.	More than three (3) hours of direct solar access is obtainable to at least 50% of the private open space area of allotments adjoining.	Yes						
Where an existing structure already impinges upon the solar access of an adjoining property to a greater degree than that specified, any new structures or modifications must maintain that existing solar access as a minimum. However, Council encourages new structures to reduce the solar impact onto adjoining properties.		N/A						
Where the adjoining residential land is vacant, at least 50% of the rear yard area of the adjoining land is to receive sunshine in accordance with this control.	Currently vacant, with DA to be lodged concurrently for a dwelling on the lot.	N/A						
<b>D16.10 Private and Communal Open Space Areas</b>								
The minimum private open space area and dimension are to be in accordance with the following: <table border="1"> <thead> <tr> <th>Development</th><th>Minimum area of POS (m<sup>2</sup>)</th><th>Minimum dimensions of POS (m)</th></tr> </thead> <tbody> <tr> <td>Development on lots greater than 14m wide</td><td>24</td><td>4</td></tr> </tbody> </table>	Development	Minimum area of POS (m <sup>2</sup> )	Minimum dimensions of POS (m)	Development on lots greater than 14m wide	24	4	An unencumbered 7 x 11 metre private open space area is provided on the northern side of the building adjacent to internal living areas.	Yes
Development	Minimum area of POS (m <sup>2</sup> )	Minimum dimensions of POS (m)						
Development on lots greater than 14m wide	24	4						
<b>Design and siting of private open space areas</b> Dwellings are to be designed so that private open space is directly accessible from internal living areas enabling it to function as an extension of internal living areas and is to have good solar orientation (i.e. orientated to the north, north east or north west where possible). Private open space for new dwellings is not to be in positions such that it 'borrows' amenity by overlooking adjoining dwellings.	POS areas will be directly obtainable from internal living areas; the exterior roof above the paved private open space is open and allows for sunlight to pass through to maximise solar access.	Yes						
Private open space areas should include provision of clothes drying facilities suitably screened from the street and public places. Private open space is to include gas BBQ points and external power points, where possible.	Clothes drying facilities are capable of being provided.	Yes						

<p>The primary orientation of balconies is to be to the street or rear boundary. Balconies are not to be fully recessed into the building form. Balconies should not form the dominant architectural expression of the building.</p>	<p>The balcony connecting to Bedroom 2 on the western side of the dwelling is to be oriented towards Fern Creek Road.</p> <p>The balcony that connects with the master bedroom faces to the north-west. It is noted that this balcony is orientated to Fern Creek Road as much as possible, but due to the irregular shape of the site, faces a small portion of Lot 3.</p> <p>This orientation is considered to have minimal impact due to the following measures in place to limit privacy concerns:</p> <ul style="list-style-type: none"> <li>• The part of the balcony orientated towards Lot 3 primarily faces the south-eastern side setback, which is not a frequently used area;</li> <li>• The kitchen, which is located in the south-eastern corner of the lower ground floor of Lot 3, has no windows to increase privacy in this area;</li> <li>• Two (2) trees being a 7m tall <i>Fraxinus griffithii</i> and an existing 20m tall <i>Angophora costata</i> are located within the side boundary of Lot 3 and provide landscaped screening between the dwellings. This landscaped screening is deemed to significantly reduce any sightlines between the balcony and the adjoining dwelling;</li> <li>• It is noted that there are two (2) windows in the southern corner of the ground floor of Lot 3 that are in a bedroom and an en-suite bathroom. While these areas of the dwelling are habitable rooms, they are not frequently in use and privacy concerns are limited; and</li> <li>• The balcony in question is a private balcony that is only accessed via a bedroom. This balcony will only be used infrequently, sporadically and primarily by one or two people at a time.</li> </ul> <p>The balcony is responding to the unique shape of the allotment and the design has attempted to orientate towards the street as much as possible. Additionally, the landscaped screening, as well as the design</p>	<p>No – Justifiable</p>
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	of the proposed dwelling in Lot 3 have limited the potential of privacy concerns associated with the balcony.	
For dwellings above ground, private open space is to be provided by balconies.	Not applicable.	N/A
For ground floor dwellings, private open space is to be provided as a terrace or garden.	Not applicable.	N/A
Balconies adjacent to the rear boundary must be designed to limit overlooking and maintain privacy to adjoining residences.	Not applicable.	N/A
<b>D16.11 Form of construction including retaining walls, terracing and undercroft areas</b>		
Where retaining walls and terracing are visible from a public place, preference is given to the use of sandstone or sandstone like materials. In creekline corridors, sandstone boulder walls are to be used instead of standard retaining walls to provide a more natural environment that allows fauna to traverse the boulder wall.	Visible retaining walls will be aesthetically pleasing and fit the design of the building and streetscape.	Yes
<b>D16.12 Fences</b>		
In all cases, vegetation is preferable over fencing to delineate the property boundary.	Noted.	Yes
Fencing is not permitted forwards of the building line. Boundaries between public and private land should be delineated by vegetation such as low hedges, garden beds or the like.	Fencing 1.2m high and constructed of brick and slats is proposed forward of building line. Due to its height and open design, this is deemed satisfactory and in line with the objectives of this control.	No – Justifiable
Any fencing must: <ul style="list-style-type: none"> <li>allow native animals to move between and to areas of environmental sensitivity and areas of habitat value;</li> <li>enable casual surveillance from buildings for safety and surveillance;</li> <li>assist in highlighting entrances and in creating a sense of community identity;</li> <li>be compatible with facilities in the street frontage area, such as mail boxes and garbage collection areas; and</li> <li>complement any facilities and landscaping in public areas.</li> </ul>	Fencing will: <ul style="list-style-type: none"> <li>allow native animals to move between and to areas of environmental sensitivity and areas of habitat value;</li> <li>enable casual surveillance from buildings for safety and surveillance;</li> <li>assist in highlighting entrances and in creating a sense of community identity;</li> <li>be compatible with facilities in the street frontage area, such as mail boxes and garbage collection areas; and</li> <li>complement any facilities and landscaping in public areas.</li> </ul>	Yes
Side and rear boundary fencing must not exceed 1.8 metres in height. Fencing must be located on the ground level (existing) of the property boundary, not raised by retaining walls or the like.	Fencing does not exceed 1.8m on the side and rear boundaries. It is also located on the ground level.	Yes
Where residential lots front/face/abut Macpherson, Garden and Orchard Streets, and Warriewood Road, dwelling frontages, pedestrian access and postal	Site not located on a listed street.	N/A

addresses must be maintained to these roads. Corner lots are exempt from this requirement, where applicable.		
Fencing resulting in walled or gated communities is not permitted.	Not applicable.	N/A
<b>D16.13 Building colours and materials</b>		
<p>External colours and materials shall be natural tones such as green, brown and dark earthy colours, as shown below:</p>  <p>White, light coloured, red or orange roofs and walls are not permitted.</p> 	The development would be largely finished by dark and earthy tones, with a slate grey roof. Refer to the material schedule and 3D images for further details regarding colour.	Yes
<b>D16.14 Pets and companion animals</b>		
The need for pets and companion animals must take into account their relationship with native animals, including endangered species, and their habitat.	Noted.	-
Pets should be contained within the owners property and/or dwelling (dependant on animal), especially at night to prevent predation on wildlife.	Noted.	-
Pets and companion animals must be kept in accordance with the <i>Companion Animals Act 1998</i> and Council registration as required.	Noted.	-

## 4.5 Planning Agreements - Section 4.15(1)(a)(iia)

No planning agreement has been found to apply to the subject site.

## 4.6 The Regulations - Section 4.15(1)(a)(iv)

The pertinent considerations identified within the Regulations relate to conformity with the Building Code of Australia (BCA). Satisfaction of such Regulations (i.e. conformity with the BCA) are capable of being satisfied.

## 4.7 Likely Impacts of the Development – Section 4.15(1)(b)

### 4.7.1 Impact on the Natural Environment

The proposed development will develop a vacant site. There will subsequently be a minor impact to the surrounding vegetation, with two (2) trees proposed for removal. However, this is not deemed to have a significant impact on the natural environment of the surrounding area. The proposal will not increase stormwater runoff, and subject to conditions there will be no erosion and subsequent soil or water impacts.

The placement of the development will maximise landscaping on the south-western and northern sides of the site; such landscaping will subsequently mitigate any visual impact of the development from the adjoining Fern Creek Road reserve.

The design of the building will afford good solar amenity to living areas within the proposed dwelling, and the proposal will have no adverse and unreasonable impacts on surrounding allotments or the public domain in terms of solar access, visual privacy and views.

As such, the proposal will not have any significant impact on the natural environment.

### 4.7.2 Impact on the Built Environment

The proposed dwelling has been designed with regard to the constraints of the site (i.e. its irregular shape with regard to the surrounding road network/public domain, lot orientation and boundaries), and will present well to the public domain. Aside from being a highly-articulated structure, it is to be well below the permitted height limit; in combination with the building's placement as far as possible from the public domain, its already modest bulk and scale will be able to be effectively screened and filtered by proposed landscaped areas of the site.

As the building will therefore present to the public domain as a highly-landscaped development that is of modest bulk and scale, the proposal will not have any significant impacts on the built environment.

### 4.7.3 Social Impacts

The proposed dwelling has been designed with regard to the public domain with windows facing the street for passive surveillance reducing potential of crime.

The development provides and contributes to diversity in housing choice and, is not considered to have any adverse impacts on the social significance of the locality for present or future generations. In this regard, the proposal will have a positive social impact on the surrounding locality.

### 4.7.4 Economic Impacts

There are no adverse economic impacts are likely to result from the proposed dwelling development. The proposed development will beneficially contribute to a range of economic benefits within the Northern Beaches LGA and surrounding areas by employing locals for the construct and enhance local consumption of goods and services as a result of accommodating residents at the site.

## 4.8 Suitability of the Site for the Development – Section 4.15(1)(c)

The proposed dwelling is a permissible land use within, and would satisfy the objectives of, the R3 Medium Density Residential zone. The proposal is generally consistent with the relevant matters for consideration in the PLEP 2014 and P21 DCP and the design of the development will prevent adverse and unreasonable impacts on surrounding sites and the public domain.

Accordingly, the site is considered to be suitable for the proposed development, which would have no significant environmental, social or economic impacts on the neighbouring properties or surrounding area.

## 4.9 Public Submissions – Section 4.15(1)(d)

Any public submissions received in response to the development proposal are required to be considered in light of Section 4.15 of the Act, having particular regard to:

- The stated and underlying objectives of the relevant planning controls;
- The specific merits and circumstances that apply to the proposed development and the site;
- The acceptable nature of the likely impacts of the proposal;
- The suitability of the site in accommodating the proposed development; and,
- The acceptable nature of the proposal when considering the wider public interest.

## 4.10 Public Interest – Section 4.15(1)(e)

The proposal provides the local area with housing infrastructure on a site inherently suitable for such a use as it is a permissible form of development under PLEP 2014.

To summarise the assessment of the proposal to the relevant planning matters discussed above, the proposal is consistent with these matters, while not negatively impacting the environment, economic, or social environments that surround the site. Accordingly, the proposal is considered in the public interest.

## 5. Conclusion

The proposed development has been assessed against the provisions of Section 4.15 of the Act. On balance, it is concluded the development is satisfactory and warrants development consent, having regard to the following matters:

- The proposed development is permissible within the R3 zone under PLEP 2014.
- The proposal is consistent with the relevant aims and objectives of PLEP 2014.
- The proposal is generally consistent with the relevant development controls and requirements of Pittwater 21 DCP. Proposed variations to some requirements are however supportable, as the proposal will satisfy the objects of those controls and will not adversely affect the surrounding area.
- The proposal makes use of existing infrastructure and resources that have been provided as part of the recently completed subdivision. The design and layout of the building and site will also ensure that there are no impacts on the natural and built environments, and the character of the existing medium-density residential environment will remain unchanged.
- No unreasonable impacts are expected from the proposed use to the natural, built, social and economic environments surrounding the site.
- The proposal will provide economic benefits to the local community and wider region.

Accordingly, it is recommended that Northern Beaches Council support this development application.