

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2020/1313
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<b>Responsible Officer:</b>	Adam Urbancic
<b>Land to be developed (Address):</b>	Lot 22 DP 270907, 30 Baz Retreat WARRIEWOOD NSW 2102
<b>Proposed Development:</b>	Construction of a dwelling house and landscape works
<b>Zoning:</b>	R3 Medium Density Residential
<b>Development Permissible:</b>	Yes
<b>Existing Use Rights:</b>	No
<b>Consent Authority:</b>	Northern Beaches Council
<b>Land and Environment Court Action:</b>	No
<b>Owner:</b>	Nicole Juliet Gock Michael Anthony Gock
<b>Applicant:</b>	Clarendon Homes Pty Ltd

<b>Application Lodged:</b>	16/10/2020
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Single new detached dwelling
<b>Notified:</b>	28/10/2020 to 11/11/2020
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 415,060.00
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### PROPOSED DEVELOPMENT IN DETAIL

The development application seeks consent for the construction of a new two (2) storey brick and clad dwelling house with a tiled roof, as well as associated driveway and landscaping works.

### ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;

- A site inspection was conducted and consideration has been given to the impacts of the development upon the subject site and adjoining, surrounding and nearby properties;
- Notification to adjoining and surrounding properties, advertisement (where required) and referral to relevant internal and external bodies in accordance with the Act, Regulations and relevant Development Control Plan;
- A review and consideration of all submissions made by the public and community interest groups in relation to the application;
- A review and consideration of all documentation provided with the application (up to the time of determination);
- A review and consideration of all referral comments provided by the relevant Council Officers, State Government Authorities/Agencies and Federal Government Authorities/Agencies on the proposal.

## SUMMARY OF ASSESSMENT ISSUES

Pittwater 21 Development Control Plan - B6.3 Off-Street Vehicle Parking Requirements  
 Pittwater 21 Development Control Plan - D16.5 Landscaped Area for Newly Created Individual Allotments  
 Pittwater 21 Development Control Plan - D16.7 Side and rear building lines  
 Pittwater 21 Development Control Plan - D16.12 Fences

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 22 DP 270907 , 30 Baz Retreat WARRIEWOOD NSW 2102
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the north-eastern side of Baz Retreat.</p> <p>The site is irregular in shape with a total frontage of 15.33m along Baz Retreat and an average depth of 24.78m. The site has a surveyed area of 323.5m<sup>2</sup>.</p> <p>The site is located within the R3 Medium Density Residential zone and is currently vacant.</p> <p>The site has an overall slope of 7.6% and falls 1.77m from the northern corner of the site to the southern corner of the site.</p> <p>The site does not contain any significant vegetation.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development within the immediate vicinity of the subject site is characterised by vacant allotments, recently constructed dwelling houses and a residential flat building currently under construction, along with existing low density residential development located to the north of the subject site across Warriewood Road. There are existing large allotments located to the west of the subject site, which currently accommodate rural dwelling</p>

houses and associated infrastructure.

Map:



## SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

### 30 December 2013

Development Application N0182/13 for the 40 lot subdivision of existing sites and demolition of existing structures was refused.

### 15 October 2014

An appeal of Development Application N0182/13 was upheld with the Land and Environment Court of New South Wales and the application was approved through orders of the Court arising from a conciliation conference process conducted pursuant to Section 34 of the Land and Environment Court Act 1979 (LEC Act 1979).

### 3 August 2015

An appeal of Modification Application N0182/13/S96/1 of Development Consent N0182/13 which was lodged directly with the Land and Environment Court of New South Wales under the provisions of Section 96(8) of the Environmental Planning and Assessment Act 1979 (EPA Act 1979) was upheld in part and partially approved through orders of the Court arising from a conciliation conference process conducted pursuant to Section 34 of the LEC Act 1979. The application proposed amendments to Condition C19 of Development Consent N0182/13 and the monetary contributions payable under Section 94 of the EPA Act 1979.

### 3 December 2015

An appeal of Modification Application N0182/13/S96/2 of Development Consent N0182/13 which was lodged directly with the Land and Environment Court of New South Wales under the provisions of Section 96(8) of the EPA Act 1979 was dismissed and the application was refused. The application proposed amendments to Condition C19 of Development Consent N0182/13.

27 April 2018

Modification Application Mod2017/0344 of Development Consent N0182/13 was granted consent under the provisions of Section 96(AA) of the EPA Act 1979. The application approved changes to the staging of the development and related conditions of Development Consent N0182/13.

12 March 2019

Subdivision Certificate SC2018/0060 for Stage 2A of the approved subdivision under Development Consent N0182/13 was endorsed by Council's Public Officer. This subdivision plan was registered with Land and Property Information NSW on 2 April 2019.

25 March 2019

Development Application DA2018/1648 for the construction of a dwelling house was granted deferred commencement consent.

9 October 2020

Modification Application Mod2020/0352 of Development Consent N0182/13 was granted consent under the provisions of Section 4.56 of the EPA Act 1979. The application approved changes to the wording of Condition E5 to permit cats to be kept within the site.

**Note:** This site history relates only to the individual allotment legally referred to as Lot 22 in DP 270907 (30 Baz Retreat, Warriewood) and does not include applications relating to other properties located within the approved subdivision.

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)**

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument	Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk.
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p><u>Division 8A</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building</p>

Section 4.15 Matters for Consideration'	Comments
	<p>designer at lodgement of the development application. This clause is not relevant to this application.</p> <p><u>Clauses 54 and 109</u> of the EP&amp;A Regulation 2000 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 92</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This clause is not relevant to this application.</p> <p><u>Clauses 93 and/or 94</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&amp;A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p><u>Clause 143A</u> of the EP&amp;A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
<p>Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p>	<p>(i) <b>Environmental Impact</b> The environmental impacts of the proposed development on the natural and built environment are addressed under the Pittwater 21 Development Control Plan section in this report.</p> <p>(ii) <b>Social Impact</b> The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) <b>Economic Impact</b> The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing and proposed land use.</p>
<p>Section 4.15 (1) (c) – the suitability of the site for the development</p>	<p>The site is considered suitable for the proposed development.</p>
<p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p>	<p>See discussion on “Notification &amp; Submissions Received” in this report.</p>
<p>Section 4.15 (1) (e) – the public</p>	<p>No matters have arisen in this assessment that would justify the</p>



Section 4.15 Matters for Consideration'	Comments
interest	refusal of the application in the public interest.

## EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

## BUSHFIRE PRONE LAND

The site is not classified as bush fire prone land.

## NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited from 28/10/2020 to 11/11/2020 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition of the application Council received no submissions.

## REFERRALS

Internal Referral Body	Comments
Landscape Officer	<p>The proposal for the construction of a new dwelling.</p> <p>Council's Landscape Referral staff have assessed the proposal against the following Pittwater 21 DCP Controls (but not limited to):</p> <ul style="list-style-type: none"> <li>• B4.22 Preservation of Trees and Bushland Vegetation</li> <li>• C1.1 Landscaping</li> <li>• D16 Warriewood Valley Locality, and in particular D16.5 Landscaped Area for Newly Created Individual Allotments, and D16.12 Fences</li> </ul> <p>The site is a vacant lot with no existing vegetation within the site. Existing site trees are present within the road verge and all shall be protected. No Arboricultural Impact Assessment report is provided, nor required in this instance. The existing street trees along the Baz Retreat frontage shall be preserved and are subject to conditions of consent.</p> <p>A Landscape Plan is submitted with the application and the works are subject to conditions of consent.</p> <p>Landscape Referral have no objections to the application.</p>
NECC (Bushland and Biodiversity)	<p>Council's biodiversity and planning team have reviewed the proposal against relevant planning controls and consider that no impacts to biodiversity are proposed associated with the development. It is noted that the subject property is part of a previous subdivision approval and that existing conditions of consent include a restriction on the keeping cats to indoors at all times as noted on the community management statement.</p>
NECC (Development)	<p>No objections to the new dwelling subject to conditions.</p>

Internal Referral Body	Comments
Engineering)	
NECC (Water Management)	<p>This application has been assessed for compliance with the Water Management Report for the subdivision of 29-31 Warriewood Road, prepared by Civil Cert and dated 1/1/2018.</p> <p>Site coverage is more than the maximum 65% allowed under the WMR, but the increased impervious surfaces of this lot are unlikely to make the common bio-retention/detention basin for this subdivision exceed its design capacity. The owner will be conditioned to ensure no further impervious surfaces are added to the lot.</p> <p>Sediment controls are crucial to prevent sediment entering the stormwater network and impacting the bio-retention basin on the site, which will be responsibility of the property owners to clean. Sediment and erosion controls must be installed prior to disturbing any soil on site and maintained until all work is complete and groundcover re-established.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

## ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

## State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

### SEPP 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

## SEPP (Building Sustainability Index: BASIX) 2004

A BASIX Certificate has been submitted with the application (see Certificate No. 1112920S\_02, dated 7 October 2020). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 0004979282, dated 3 July 2020).

The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	50

A condition has been included in the recommendation of this report requiring compliance with the commitments indicated in the BASIX Certificate.

### SEPP (Infrastructure) 2007

#### Ausgrid

Clause 45 of the SEPP requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0m of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

#### Comment:

The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.

### Pittwater Local Environmental Plan 2014

Is the development permissible?	Yes
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes
zone objectives of the LEP?	Yes

#### Principal Development Standards

Standard	Requirement	Proposed	% Variation	Complies
Height of Buildings:	10.5m	8.15m	N/A	Yes



### Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.10 Heritage conservation	Yes
6.1 Warriewood Valley Release Area	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.6 Biodiversity protection	Yes
7.10 Essential services	Yes

### Pittwater 21 Development Control Plan

#### Built Form Controls

Built Form Control	Requirement	Proposed	% Variation*	Complies
Front building line	1.5m to Articulation Zone	4.1m	N/A	Yes
	4m to Garage/Carport	4m	N/A	Yes
	3m to Dwelling	4.9m	N/A	Yes
Rear building line	4m to Ground Floor	4.42m	N/A	Yes
	6m to Upper Level	4.71m - 5.74m	Up to 21.5% (1.29m)	No
Side building line	0.9m to Ground Floor (NW)	1.35m - 1.95m	N/A	Yes
	1.5m to Upper Level (NW)	1.95m - 2.1m	N/A	Yes
	0.9m to Ground Floor (SW)	0.94m - 2.15m	N/A	Yes
	1.5m to Upper Level (SW)	2.95m - 3.35m	N/A	Yes
Landscaped area	35% (113.23m <sup>2</sup> )	31.14% (100.73m <sup>2</sup> )	11.04% (12.5m <sup>2</sup> )	No

**\*Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: 38/40 x 100 = 95 then 100 - 95 = 5% variation)

### Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.16 Warriewood Valley Locality	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.15 Saltmarsh Endangered Ecological Community	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	No	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.3 View Sharing	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.13 Pollution Control	Yes	Yes
C1.23 Eaves	Yes	Yes
C6.2 Natural Environment and Landscaping Principles	Yes	Yes
C6.3 Ecologically Sustainable Development, Safety and Social Inclusion	Yes	Yes
C6.5 Utilities, Services and Infrastructure Provision	Yes	Yes
D16.1 Character as viewed from a public place	Yes	Yes
D16.5 Landscaped Area for Newly Created Individual Allotments	No	Yes
D16.6 Front building lines	Yes	Yes
D16.7 Side and rear building lines	No	Yes
D16.9 Solar access	Yes	Yes
D16.10 Private and Communal Open Space Areas	Yes	Yes
D16.11 Form of construction including retaining walls, terracing and undercroft areas	Yes	Yes
D16.12 Fences	N/A	N/A
D16.13 Building colours and materials	Yes	Yes
D16.14 Pets and companion animals	Yes	Yes

### Detailed Assessment

#### **B6.3 Off-Street Vehicle Parking Requirements**

The internal dimensions of the proposed double garage (5.52m x 5.52m) do not meet the minimum dimensions stated under this control (5.7m x 6m), however, the internal size complies with the requirements of AS/NZS 2890.-1 2004: Parking Facilities Part 1: Off Street Car Parking (5.4m x 5.4m), which can be considered as a variation to Council's requirements in accordance with the outcomes of the control, as below.

- *An adequate number of parking and service spaces that meets the demands generated by the development.*

#### Comment

The proposed development will provide the minimum two (2) off-street parking spaces required under this control, which meets the demands generated by the development.

- *Functional parking that minimises rainwater runoff and adverse visual or environmental impacts while maximising pedestrian and vehicle safety.*

#### Comment

The proposed double garage minimises rainwater runoff and does not cause any adverse visual or environmental impacts. Furthermore, the proposed double garage has been designed to comply with the relevant Australian Standards and therefore maximises pedestrian and vehicle safety.

- *Safe and convenient parking.*

### Comment

Although the proposed double garage is considered to be undersized in accordance with Council's requirements, the double garage meets the minimum dimensions stipulated under the relevant Australian Standards and is therefore considered to be safe and convenient.

Based on the above, the proposed development is consistent with the outcomes of the control and the non-compliance is supported on merit.

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

Required Landscaped Area: 35% or 113.23m<sup>2</sup>

Proposed Landscaped Area: 31.14% or 100.73m<sup>2</sup>

Proposed Landscaped Area (including all areas where plants, grasses and trees can grow: 47.06% or 152.24m<sup>2</sup>

### Description of non-compliance

The proposed landscaped area when considering the 4m minimum dimensions stated in this control is 31.14%, which results in a shortfall of the 35% requirement under this control. Despite this, strict compliance with the minimum dimensions is considered unreasonable for this site as it is constrained in its overall dimensions and area, which limits the potential to site the building in a location to provide additional landscaped area which is able to meet the requirements of this control. The proposed landscaped area when incorporating all areas on the site where plants, grasses and trees can grow is 47.06%, which meets the overall quantitative requirement of this control.

### Merit Consideration

Further consideration of the non-compliance will be given in accordance with the outcomes of the control, as below.

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

#### Comment

The site does not contain any significant natural features. The proposed development contributes to the effective management of biodiversity by incorporating native vegetation into the landscaping.

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

#### Comment

The proposed landscaping is of a high quality and is consistent with the landscape character of Warriewood Valley, therefore contributing to the sense of place.

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

#### Comment

The proposed landscaping consists of generally native vegetation, promoting ecologically sustainable outcomes, and therefore maintaining and enhancing biological diversity and ecological processes.

- *The area of site disturbance is minimised.*

#### Comment

The area of site disturbance is minimised generally to the footprint of the dwelling house and associated areas.

- *Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.*  
Comment  
The total area provided as impervious hard surface area is slightly less than what is allowable under this control, therefore, the amount of stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage channels.
- *Landscaped areas should be predominately areas of deep soil.*  
Comment  
The landscaped areas are predominantly deep soil zones enabling the planting of trees and vegetation.
- *New development is blended into the streetscape and neighbourhood through the retention and enhancement of vegetation.*  
Comment  
The proposed development does not impact any of the existing street trees and will enhance vegetation on the site through additional planting, including trees and shrubs, within the front, side and rear yards, therefore blending the new development into the streetscape and neighbourhood.
- *To ensure a reasonable level of privacy and amenity is provided within the development site and maintained to neighbouring properties.*  
Comment  
The proposed development ensures that a reasonable level of privacy and amenity is provided within the development site and is also maintained to neighbouring properties through the incorporation of landscaping along the boundaries of the site.

Based on the above, the proposed development is consistent with the outcomes of the control and the non-compliance is supported on merit.

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

#### Description of non-compliance

The proposed development provides a 4.71m to 5.74m rear setback to the upper level of the dwelling house.

The control requires a 6m rear setback to be provided to the upper level of a detached dwelling on a front loaded lot greater than or equal to 20m deep.

#### Merit Consideration

Further consideration of the non-compliance will be given in accordance with the outcomes of the control, as below.

- *To achieve the desired future character of the Locality.*  
Comment  
The proposed development is consistent with the desired future character of the Warriewood Valley Locality.

- *The area of site disturbance is minimised and soft surface is maximised.*

Comment

The area of site disturbance is minimised generally to the footprint of the dwelling house and associated areas. As the proposed development is compliant with the required ground floor setbacks and provides a greater amount of landscaped area than that required under the relevant control when incorporating all areas where plants, grasses and trees can grow, it is considered that the soft surface area in relation to the overall site area is maximised.

- *The bulk and scale of the built form is minimised and the impact of the proposed development on the adjoining properties is minimised.*

Comment

The proposed development is well-articulated on all elevations and is of an appropriate overall height, therefore ensuring that the bulk and scale of the built form is minimised, with the impact of the proposed development on adjoining properties also minimised.

- *To create meaningful breaks between adjoining buildings and regular rhythm of built form, particularly with regard to the built forms presentation to public places.*

Comment

The proposed development creates a meaningful break between adjoining buildings and regular rhythm of built form by providing appropriate separation between the proposed dwelling and the adjoining dwelling at 57 Warriewood Road. The siting of the proposed dwelling is also consistent with the existing dwellings within Baz Retreat. It is also noted that the site is constrained by the cul-de-sac end of Baz Retreat, which restricts the usable portion at the front of the site. The non-compliance with the rear building line does not change the presentation of the built form when viewed from a public place.

- *To create usable curtilage areas around buildings for viable access, landscaping and open space.*

Comment

The proposed development is compliant with the required ground floor setbacks, which are generally unobstructed, therefore providing usable curtilage areas around the building for viable access, landscaping and open space.

- *Equitable preservation of views and vistas to and/or from public/private places.*

Comment

The proposed development ensures the equitable preservation of views and vistas to and/or from both public and private places.

- *Vegetation and natural features of the site is retained and enhanced within the development site design to screen the visual impact of the built form.*

Comment

The subject site does not contain any vegetation and natural features, however, the proposed development will enhance vegetation on the site through new planting within the site to screen the visual impact of the built form.

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

Comment

Although the non-compliance with the rear building line slightly increases the shadow cast by the development, a compliant and reasonable level of solar access is provided within the development site and is also maintained to neighbouring properties. The single upper level window on the north-eastern elevation, which is located at the point where the building is furthest from the rear boundary ensures that a reasonable level of privacy and amenity is also

provided within the development site and is maintained to neighbouring properties.

Based on the above, the proposed development is consistent with the outcomes of the control and the non-compliance is supported on merit.

### **D16.12 Fences**

The submitted Landscape Plan, prepared by Umbaco Landscape Architects and dated 26 October 2020, includes 1800mm high boundary fencing along the north-western, north-eastern and south-eastern boundaries. As owner's consent from the adjoining property owners has not been provided and is required for any works on a common boundary, the applicant has agreed to remove the fencing from this development application.

As such, a condition will be placed requiring the proposed fencing to be deleted from the approved plans prior to the issue of a Construction Certificate.

### **THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES**

The proposal will not significantly affect threatened species, populations or ecological communities, or their habitats.

### **CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

### **CONCLUSION**

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979



It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

## RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2020/1313 for Construction of a dwelling house and landscape works on land at Lot 22 DP 270907, 30 Baz Retreat, WARRIEWOOD, subject to the conditions printed below:

### DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

<b>Architectural Plans - Endorsed with Council's stamp</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Sheet 2, Site Plan, Rev E	26 March 2020	Clarendon Homes (NSW) P/L
Sheet 3, Ground Floor Plan, Rev E	8 May 2020	Clarendon Homes (NSW) P/L
Sheet 4, First Floor Plan, Rev E	8 May 2020	Clarendon Homes (NSW) P/L
Sheet 5, South-West and South-East Elevations, Rev E	8 May 2020	Clarendon Homes (NSW) P/L
Sheet 6, North-East and North-West Elevations, Rev E	8 May 2020	Clarendon Homes (NSW) P/L
Sheet 7, Section A-A and Stair Elevation, Rev E	8 May 2020	Clarendon Homes (NSW) P/L

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
D1, Legend, Notes, Details, Calculations, Issue C	7 November 2020	StormCivil Consulting Engineers
D2, Stormwater Management Plan, Issue C	7 November 2020	StormCivil Consulting Engineers

<b>Reports / Documentation – All recommendations and requirements contained within:</b>		
<b>Report No. / Page No. / Section No.</b>	<b>Dated</b>	<b>Prepared By</b>
BASIX Certificate (Cert No. 1112920S_02)	7 October 2020	Energi Thermal Assessors Pty Ltd
Schedule of Colours and Materials (Job	9 July 2020	Clarendon Colour Studio

No. 29914188)		
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b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

<b>Landscape Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
L01, Landscape Plan, Issue F	26 October 2020	Umbaco Landscape Architects

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	27 April 2020	Clarendon Homes (NSW) Pty Ltd

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

## 2. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - A. the name and licence number of the principal contractor, and
    - B. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:

- A. the name of the owner-builder, and
- B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (i) protect and support the adjoining premises from possible damage from the excavation, and
  - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
  - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
  - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

### 3. **General Requirements**

- (a) Unless authorised by Council:  
Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of

any Authorised Officer.

- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.
- (k) Prior to the commencement of any development onsite for:
  - i) Building/s that are to be erected
  - ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
  - iii) Building/s that are to be demolished
  - iv) For any work/s that is to be carried out
  - v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.
- (n) Requirements for new swimming pools/spas or existing swimming pools/spas affected by building works.
  - (1) Child resistant fencing is to be provided to any swimming pool or lockable

cover to any spa containing water and is to be consistent with the following;

Relevant legislative requirements and relevant Australian Standards (including but not limited) to:

- (i) Swimming Pools Act 1992
  - (ii) Swimming Pools Amendment Act 2009
  - (iii) Swimming Pools Regulation 2018
  - (iv) Australian Standard AS1926 Swimming Pool Safety
  - (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
  - (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools.
- (2) A 'KEEP WATCH' pool safety and aquatic based emergency sign, issued by Royal Life Saving is to be displayed in a prominent position within the pool/spa area.
  - (3) Filter backwash waters shall be conveyed to the Sydney Water sewerage system in sewered areas or managed on-site in unsewered areas in a manner that does not cause pollution, erosion or run off, is separate from the irrigation area for any wastewater system and is separate from any onsite stormwater management system.
  - (4) Swimming pools and spas must be registered with the Division of Local Government.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

## CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

### 4. **Stormwater Disposal**

The applicant is to submit Stormwater Drainage Plans for the new development, prepared by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site. Stormwater shall be conveyed from the site to Baz Retreat.

Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from the development.

### 5. **Amendments to the Approved Plans and Landscape Plans**

The proposed 1800mm lap and cap fencing along the north-western, north-eastern and southeastern boundaries is to be deleted from the approved plans and landscape plans, and does not form part of this consent.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is carried out in accordance with this consent.

**6. Compliance with Standards**

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

**7. External Finishes to Roof**

The external finish to the roof shall have a medium to dark range (BCA classification M and D) in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

**8. Sydney Water "Tap In"**

The approved plans must be submitted to the Sydney Water Tap in service, prior to works commencing, to determine whether the development will affect any Sydney Water assets and/or easements. The appropriately stamped plans must then be submitted to the Certifying Authority demonstrating the works are in compliance with Sydney Water requirements.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- "Tap in" details - see <http://www.sydneywater.com.au/tapin>
- Guidelines for Building Over/Adjacent to Sydney Water Assets.

Or telephone 13 000 TAP IN (1300 082 746).

Reason: To ensure compliance with the statutory requirements of Sydney Water.

**CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK**

**9. Installation and Maintenance of Sediment and Erosion Controls**

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prepared by Clarendon Homes prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

**10. Survey Certificate**



A survey certificate prepared by a Registered Surveyor at the following stages of construction:

(a) Commencement of perimeter walls columns and or other structural elements to ensure the wall or structure, to boundary setbacks are in accordance with the approved details.

(b) At ground level to ensure the finished floor levels are in accordance with the approved levels, prior to concrete slab being poured/flooring being laid.

(c) At completion of the roof frame confirming the finished roof/ridge height is in accordance with levels indicated on the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To determine the height of buildings under construction comply with levels shown on approved plans.

**11. Protection of existing street trees**

All existing street trees in the vicinity of the works and the street tree at the site frontage shall be retained during all construction stages and thereafter. Existing tree guards shall be maintained in place.

Should any street tree along the site frontage not contain a tree guard or the existing tree guard is damaged during works, tree protection fencing consisting of a four sided 1.8m high x 2.4m length standard wire mesh construction fence, in accordance with Australian Standard AS 4687-2007: Temporary Fencing & Hoardings, shall be installed around the tree for the duration of the works.

Any street tree damaged or removed shall be replaced at a minimum container size of 200 litres, and in accordance with guidelines provided by Council.

Reason: to retain and protect tree planting on development sites.

## CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

**12. Landscape completion**

Landscaping shall be completed in accordance with the Landscape Plan L01, inclusive of the following requirements:

- i) the tree nominated within the front yard shall be either *Melaleuca linariifolia*, *Backhousia myrtifolia*, or *Tristaniopsis laurina*,
- ii) the trees nominated within the rear yard shall be 1 x *Syzygium paniculatum* and 1 x *Ceratopetalum gummifera*,
- iii) each tree is to be located a minimum area of at least 1.5 metres from adjoining common residential side boundaries,
- iv) all tree planting is to be located a minimum of 4 metres from existing and proposed dwellings,
- v) trees shall be planted at minimum 75 litre size,
- vi) fencing is not permitted forward of the front building line. Boundaries between public and private land shall be delineated by vegetation, such as low hedges, garden beds or the like.

Prior to the issue of an Occupation Certificate, details shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the Landscape Plan and inclusive of any conditions.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity.

13. **House / Building Number**

House/building number is to be affixed to the building to be readily visible from the public domain.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: Proper identification of buildings.

## ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

14. **Environmental and priority weed control**

All weeds are to be removed and controlled in accordance with the NSW Biosecurity Act 2015 for the life of the development.

Reason: preservation of environmental amenity.

15. **Impervious surfaces restriction**

Connected impervious surfaces (hard surfaces that allow runoff to drain to the stormwater system rather than to deep soil landscaped areas) on the lot must not exceed 65 percent of the total lot area for the life of the development.

Reason: To ensure water management facilities do not exceed capacity.

16. **Landscape maintenance**

All landscape components are to be maintained for the life of the development or their safe useful life expectancy. A maintenance program is to be established. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components and species.

Landscape works shall be maintained for a minimum period of 12 months following practical completion for establishment. If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan.

Reason: to maintain local environmental amenity and ensure landscaping continues to soften the built form.

17. **Control of Weeds**

Prior to the completion of works, all priority weeds (as listed under the Biosecurity Act 2015) are to be removed/controlled within the subject site using an appropriately registered control method. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>). All environmental weeds are to be removed and controlled. Refer to Council website [http://www.pittwater.nsw.gov.au/environment/noxious\\_weeds](http://www.pittwater.nsw.gov.au/environment/noxious_weeds)

Reason: Weed management.

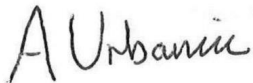
18. **Maintenance of External Colours and Materials**

Materials and colour schemes are to be maintained in accordance with the Schedule of Colours and Finishes approved as part of this development consent.

Reason: To ensure ongoing compliance with the conditions of consent.

In signing this report, I declare that I do not have a Conflict of Interest.

**Signed**



**Adam Urbancic, Planner**

The application is determined on 03/12/2020, under the delegated authority of:



**Lashta Haidari, Acting Development Assessment Manager**