

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2019/0385
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<b>Responsible Officer:</b>	Megan Surtees
<b>Land to be developed (Address):</b>	Lot 32 DP 5464, 41 Warriewood Road WARRIEWOOD NSW 2102
<b>Proposed Development:</b>	Construction of a dwelling house
<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>	Woolwich Pty Ltd
<b>Applicant:</b>	Clarendon Homes Pty Ltd

<b>Application lodged:</b>	16/04/2019
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Single new detached dwelling
<b>Notified:</b>	06/05/2019 to 20/05/2019
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	0
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Deferred Commencement Approval

<b>Estimated Cost of Works:</b>	\$ 415,959.00
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### 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

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 32 DP 5464 , 41 Warriewood Road WARRIEWOOD NSW 2102
<b>Detailed Site Description:</b>	<p>The subject site consists of one (1) allotment located on the southern side of Bubalo Street.</p> <p>The site is regular in shape with a frontage of 11m along Bubalo Street and a depth of 30m. The site has a surveyed area of 330m<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 a northerly orientation with a very minor slope falling in the direction of the street frontage towards the rear.</p> <p>The site is currently vacant with no canopy trees or vegetation.</p> <p><b>Detailed Description of Adjoining/Surrounding Development</b></p> <p>Adjoining and surrounding development is characterised by other vacant lots.</p> <p>A site visit was conducted on 27 May 2019.</p>

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:

### 13 June 2013

Planning Proposal to increase residential densities; PP0003/13.

### 5 February 2015

Planning Proposal to amend Pittwater LEP 2014 consistent with recommendations of the Warriewood Valley Strategic Review Addendum Report 2014; PP0001/14.

### 28 October 2016

Development Application for the subdivision of land and provision of infrastructure, resulting in 30 Torrens Title residential lots, 4 Community Title lots, dedication of the creekline corridor, and the creation of a new public road; N0491/16. Refused by Council and under appeal it was approved under Court consent.

### 14 March 2018

A pre-lodgement meeting was held for the construction of a new dwelling; PLM2018/0044.

### 31 May 2018

A Construction Certificate was lodged with Council for the commencement of subdivision works; CC2018/0680.

### 7 June 2018

The Principal Certifying Authority was appointed and the relevant documentation was lodged with Council for the subdivision of land and provision of infrastructure, resulting in 30 Torrens Title residential lots, 4 Community Title lots, dedication of the creekline corridor, and the creation of a new public road; PCA2018/0082.

### 28 June 2018

A Traffic Control/Traffic Management Permit was created and completed for the provision of traffic control and traffic management; PERM2018/00542.

13 July 2018

An Out of Hours Works Permit was lodged; PERM2018/00617.

A Stand Plan Permit was created and approved; PERM2018/00618.

20 November 2018

A Works Zone permit was created; PERM2018/01047.

## PROPOSED DEVELOPMENT IN DETAIL

This application seeks consent for the construction of a new two storey residential dwelling.

## 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	None applicable.
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 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, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</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</p>

Section 4.15 Matters for Consideration'	Comments
	<p>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 interest</p>	<p>No matters have arisen in this assessment that would justify the refusal of the application in the public interest.</p>

## 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 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, in terms of landscape outcome, is acceptable, subject to conditions.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater21 DCPControls:            B4.22 Preservation of Trees and Bushland Vegetation            C1.1 Landscaping            D16.5 Landscaped Area for Newly Created Individual Allotments</p> <p>Canopy Tree planting is to be provided that satisfies C1.1 Landscaping and D16.5 Landscaped Area for Newly Created Individual Allotments. Two canopy trees shall be provided within the rear and 1 canopy tree shall be provided within the frontage.</p> <p>No Arboricultural Impact Assessment report is provided. The site does not contain any trees of significance. Any existing street trees in the vicinity of the site must be protected during all stages of works.</p> <p><u>Planner's Comment:</u></p> <p>Council's Landscape Officer recommends that landscaping shall be completed in accordance with the Landscape Plan 1903 Sheet 1, with the inclusion of canopy tree planting to satisfy Control <i>C1.1 Landscaping</i> and <i>D16.5 Landscaped Area for Newly Created Individual Allotments</i> of <i>P21 Development Control Plan (DCP)</i>.</p> <p>Whilst the requirement for three (3) canopy trees to be on site is prescribed within the controls of P21 DCP, the relatively small area of the site (330m<sup>2</sup>) results in a non-compliant landscaped open space area which has raised concern in regards to the sites capacity to provide three (3) canopy trees. The proposed plans indicate that there is insufficient area to provide two (2) canopy trees in the rear yard and one (1) canopy tree in the front yard provided that each tree planted will have a minimum area of 3 metres x 3 metres wholly within the site and located a minimum 4-5 metres from proposed built structures.</p> <p>Due to the non-complying area of landscaped open space being provided on the site, the addition of two (2) canopy trees would further reduce the amount of useable open space for the occupants of the</p>

Internal Referral Body	Comments
	<p>dwelling.</p> <p>Therefore, the condition relevant to canopy tree planting will be amended to reduce the requirement of three (3) canopy trees on the site to two (2) canopy trees, with one being located in the front yard and the other being located in the backyard.</p>
NECC (Bushland and Biodiversity)	<p>The parent lot is mapped as 'Biodiversity' under the Pittweater LEP, however this does not apply to the subject site. The Warriewood Valley Landscaping controls for individual allotments applies, and the Landscape Plan (Outbuild dated 03/04/2019) is to be in accordance with this control. No significant impact to biodiversity values is likely to occur as a result of the proposed development.</p>
NECC (Coast and Catchments)	<p><b>12 Development on land within the coastal vulnerability area</b></p> <p><i>Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:</i></p> <p>(a) <i>if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of the building or works, and</i></p> <p>(b) <i>the proposed development:</i></p> <p>(i) <i>is not likely to alter coastal processes to the detriment of the natural environment or other land, and</i></p> <p>(ii) <i>is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and</i></p> <p>(iii) <i>incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and</i></p> <p>(c) <i>measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.</i></p> <p><u>Comment:</u> The subject land has not been included on the Coastal Vulnerability Area Map under State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP) and in regard to CM SEPP the proposed development is unlikely to cause increased risk of coastal hazards on the subject land or other land.</p> <p>As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.</p>
NECC (Development Engineering)	<p>Comments 17/7/19</p> <p>The Ausgrid pillar has now been relocated clear of the vehicle</p>

Internal Referral Body	Comments
	<p>crossing. No objections to development application subject to conditions.</p> <p>Updated comments 3/7/19 The developer has moved the inlet pit to enable safer vehicle access to the site. The Ausgrid pillar still needs to be moved and i have been advised this will happen later this month. Conditions will be provided there after.</p> <p>The proposed new dwelling is not supported for the following reason: 1) site vehicle access/sweep path is compromised by the location of an existing Augrid electrical pillar which sits in the middle of a shared vehicle crossing. The pillar needs to be relocated clear of the vehicle crossing /driveway together with the relocation of the stormwater gully pit to enable safe vehicle access to the garage.</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	
NECC (Water Management)	<p>This application complies with the water management requirements established in the court approved water management report for the subdivision of (the prior) 41 Warriewood Road, and is therefore recommended for approval.</p> <p>Sediment and erosion controls must be installed prior to any work on site and maintained until all work is complete and groundcover is re-established, taking particular care to prevent any sediment entering the constructed stormwater pit that is connected to the water quality basin that services the subdivision.</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. 1002514S\_02 pm 12 April 2019). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 0003694460 on 15 March 2019).

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

Commitment	Required Target	Proposed
Water	40	50
Thermal Comfort	Pass	Pass
Energy	50	51

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.

## **SEPP (Coastal Management) 2018**

The site is subject to SEPP Coastal Management (2018). Accordingly, an assessment under the SEPP has been carried out as follows:

### **10 Development on certain land within coastal wetlands and littoral rainforests area**

- (1) *The following may be carried out on land identified as “coastal wetlands” or “littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map only with development consent:*
- (a) *the clearing of native vegetation within the meaning of Part 5A of the Local Land Services Act 2013,*
  - (b) *the harm of marine vegetation within the meaning of Division 4 of Part 7 of the Fisheries Management Act 1994,*
  - (c) *the carrying out of any of the following:*
    - (i) *earthworks (including the depositing of material on land),*
    - (ii) *constructing a levee,*
    - (iii) *draining the land,*
    - (iv) *environmental protection works,*
  - (d) *any other development.*

#### Comment:

The subject site is not considered to be within coastal wetlands and littoral rainforests, therefore this Clause does not apply.

### **11 Development on land in proximity to coastal wetlands or littoral rainforest**

- (1) *Development consent must not be granted to development on land identified as “proximity area for coastal wetlands” or “proximity area for littoral rainforest” on the Coastal Wetlands and Littoral Rainforests Area Map unless the consent authority is satisfied that the proposed development will not significantly impact on:*
- (a) *the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or littoral rainforest, or*
  - (b) *the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland or littoral rainforest.*

#### Comment:

The subject site is not considered to be in proximity to coastal wetlands and littoral rainforests, therefore this Clause does not apply.

### **12 Development on land within the coastal vulnerability area**

*Development consent must not be granted to development on land that is within the area identified as “coastal vulnerability area” on the Coastal Vulnerability Area Map unless the consent authority is satisfied that:*

- (a) *if the proposed development comprises the erection of a building or works—the building or works are engineered to withstand current and projected coastal hazards for the design life of*

- the building or works, and*
- (b) *the proposed development:*
- (i) *is not likely to alter coastal processes to the detriment of the natural environment or other land, and*
  - (ii) *is not likely to reduce the public amenity, access to and use of any beach, foreshore, rock platform or headland adjacent to the proposed development, and*
  - (iii) *incorporates appropriate measures to manage risk to life and public safety from coastal hazards, and*
- (c) *measures are in place to ensure that there are appropriate responses to, and management of, anticipated coastal processes and current and future coastal hazards.*

Comment:

This Clause has been assessed against the subject site and proposed development. Council's Natural Environment Officer reviewed the application against this Clause and determined that the proposed development is unlikely to result in an increased risk to coastal hazards on the subject site and adjoining lots.

**13 Development on land within the coastal environment area**

- (1) *Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:*
- (a) *the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
  - (b) *coastal environmental values and natural coastal processes,*
  - (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
  - (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*

- (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (f) *Aboriginal cultural heritage, practices and places,*
- (g) *the use of the surf zone.*

Comment:

The subject site is not considered to be within the coastal environment area, therefore this Clause does not apply.

- (2) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:*
  - (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or
  - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
  - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment:

The subject site is not considered to be within the coastal environment area, therefore this Clause does not apply.

#### **14 Development on land within the coastal use area**

- (1)
  - (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
    - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
    - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
    - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
    - (iv) Aboriginal cultural heritage, practices and places,
    - (v) cultural and built environment heritage, and
  - (b) is satisfied that:
    - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
    - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
    - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
  - (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Comment:

The subject site is not considered to be within the coastal use area, therefore this Clause does not apply.

#### **15 Development in coastal zone generally—development not to increase risk of coastal**

## hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

### Comment:

This Clause has been assessed against the subject site and it is determined the proposed development will not result in an increased risk to coastal hazards.

As such, it is considered that the application does comply with the requirements of the State Environmental Planning Policy (Coastal Management) 2018.

## 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	7.6m	N/A	Yes

### Compliance Assessment

Clause	Compliance with Requirements
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
7.3 Flood planning	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 Articulation Zone	>1.5m Articulation Zone	N/A	Yes
	4m Garage/Carport	6m Garage/Carport	N/A	Yes
	3m Dwelling	5m Dwelling	N/A	Yes
Rear building line	4m Ground Level	5.9m Ground Level	N/A	Yes
	6m Upper Level	7.5m Upper Level	N/A	Yes



Side building line	<u>One Side (north-eastern)</u> 0.9m Ground Level 1.5m Upper Level	<u>One Side (north-eastern)</u> 0.9m Ground Level 1.1m Upper Level	N/A 26.7%	Yes
	<u>Other Side (south-western)</u> 0.9m Ground Level 1.5m Upper Level	<u>Other Side (south-western)</u> 1.2m Ground Level 1.5m Upper Level		Yes Yes
Landscaped area	35% (115m <sup>2</sup> )	30% (99m <sup>2</sup> )	14.3%	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
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.2 Bushfire Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B3.11 Flood Prone Land	Yes	Yes
B3.13 Flood Hazard - Flood Emergency Response planning	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	No	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
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
C6.1 Integrated Water Cycle Management	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

Clause	Compliance with Requirements	Consistency Aims/Objectives
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	Yes	Yes
D16.13 Building colours and materials	Yes	Yes

### Detailed Assessment

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

The off-street parking requirements for a dwelling with two (2) or more bedrooms is two (2) vehicle parking spaces. The proposed development provides off-street vehicle parking for one (1) vehicle in an enclosed garage. This is non-compliant with the requirements of this control. The measurements of the proposed enclosed garage are as follows: 3.8m x 5.8m with an entrance of 2.9m. There is a non-compliance with the internal width of the garage, as the control requires a 6.0m internal width. However, the proposed internal dimensions of the garage are considered to be compliant with the current Australian Standards for a single space. While the garage can only facilitate space for one (1) vehicle, the hardstand surface in front of the garage can act as an additional vehicle parking space. Thus providing adequate off-street parking. Additionally, the design of the garage being incorporated into the built form of the dwelling house will allow for safe and convenient pedestrian and vehicular access to the site.

While the proposal is numerically non-compliant with the minimum requirement for off-street parking, it is considered to be consistent and appropriate with the outcomes of the control and is therefore supported on merit.

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

##### Required:

35% or 115m<sup>2</sup>

##### Proposed:

30% or 99m<sup>2</sup>

The proposed development is numerically non-compliant with the 35% requirement as stated within this control. The proposal seeks to vary this control by 14%, thus reducing the overall landscaped area to 30%. There are areas of the site that will facilitate the infiltration of stormwater runoff, however, due to the minimum dimensions of 4m, these areas are not seen to contribute towards the overall landscaped areas. Under Pittwater Local Environmental Plan (PLEP) 2014, landscaped area is defined as a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area. When applying this definition to the calculation of landscaped area for the site, the total landscaped area is increased to 31.7%. Furthermore, to reduce the built form structures on the site, a mulched pathway (with an area of 17.2m<sup>2</sup>) is proposed between the dwelling and eastern boundary line to facilitate access to the rear of the site. This mulched pathway will further increase the landscaped area to 37% which results in a compliant landscaped area. The mulched pathway is considered to be an impervious surface which will facilitate the infiltration of stormwater runoff to the ground water table, which is one of the outcomes of the control. Further, the landscaped area will be enhanced by the planting of native species in the front and rear yards. The proposed planting will assist in integrating the new built structure with the surrounding natural environment of Warriewood Valley and the anticipated

streetscape of Bubalo Street.

While the proposal is numerically non-compliant with the minimum landscaped area requirements, it is considered to be appropriate and consistent with the outcomes of the control and is, therefore, supported on merit.

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

P21 DCP D16.7 outlines the minimum side setback requirements for a detached dwelling 9m to 14m wide as follows:

- One side = 0.9m on the ground level and 1.5m on the upper level.
- Other side = 0.9m on the ground level and 1.5m on the upper level.

The upper level along the north-eastern side boundary is numerically non-compliant, measuring at 1.1m from the side boundary line. As the proposal is for a new dwelling, there is no reason as to why compliance with the relevant numerical controls cannot be met. Therefore, a condition of consent will be recommended to amend the plans to reflect a compliant upper level side setback along the north-eastern side of the dwelling.

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

The proposal will not significantly effect 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**

**DEFERRED COMMENCEMENT APPROVAL**

A. THAT Council as the consent authority grant a Deferred Commencement Development Consent being subject to a Five (5) year time frame for Deferred Commencement Consents detailed within Section 95 of the EPA Act 1979 to DA2019/0385 for Construction of a dwelling house on land at Lot 32 DP 5464,41 Warriewood Road, WARRIEWOOD, subject to the conditions printed below:

B. THAT once the matters detailed within the Deferred Commencement Development Consent conditions are satisfactorily addressed then an operational development consent be issued subject to the time frames detailed within Part A of this recommendation.

**DEFERRED COMMENCEMENT CONDITIONS**

- Registration of Lot**  
Proposed Lot 17 is to be registered with NSW Land and Registry Services. Evidence that the lot has been registered with NSW Land and Registry Services is to be provided to Council in order to activate the consent.

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within five (5) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000. This evidence is to be submitted along with a completed 'Deferred Commencement Document Review Form' (available on Council's website) and the application fee, as per Council's Schedule of Fees and Charges.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

**DEVELOPMENT CONSENT OPERATIONAL CONDITIONS**

- 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>
Site Plan	28.02.2019	Clarendon Homes
Ground Floor Plans	28.02.2019	Clarendon Homes

First Floor Plan	28.02.2019	Clarendon Homes
North West Elevation (Elevation 1) & South West Elevation (Elevation 2)	28.02.2019	Clarendon Homes
South East Elevation (Elevation 3) & North East Elevation (Elevation 2)	28.02.2019	Clarendon Homes
Section A-A & Stair Section 2	28.02.2019	Clarendon Homes

<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 1002814S_02	12 April 2019	Frys Energywise

b) Any plans and / or documentation submitted to satisfy the Deferred Commencement Conditions of this consent as approved in writing by Council.

c) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

d) 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>
Landscape Plan Sheet 1	03.04.19	Outbuild Creative Outdoor Living

<b>Waste Management Plan</b>		
<b>Drawing No./Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan - Residential	12 April 2019	Clarendon Homes

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.

### 3. 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

#### 4. **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) 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.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) 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.
- (j) 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.

(k) 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 2008
  - (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.

## FEES / CHARGES / CONTRIBUTIONS

### 5. Security Bond

A bond (determined from cost of works) of \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is

located on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)).

Reason: To ensure adequate protection of Council's infrastructure.

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

### 6. Amendments to the approved plans

The following amendments are to be made to the approved plans:

- The upper level along the north-eastern side of the dwelling is to be brought in by a minimum of 400mm for the entire length of the proposed dwelling to ensure compliance with the 1.5m upper level setback as stipulated under *Clause D16.7 of P21 DCP*.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

### 7. Vehicle Driveway Gradients

Driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in Council's Minor Works Policy. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate

Reason: To ensure suitable vehicular access to private property

### 8. 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.

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

### 9. Road Reserve

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: Public Safety.

### 10. Street tree protection - General

- i) all existing street trees shall be retained during the works, including any street tree within the estate.
- ii) any street tree damaged or removed shall be replaced in accordance with guidelines provided by Council.

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

11. **Installation and Maintenance of Sediment and Erosion Control**

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 Ibrahim Stormwater Consultants.

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 the site is sufficiently stabilised with vegetation. Controls preventing sediment laden stormwater entering the constructed stormwater pit on the property that is connected to the subdivision's water quality basin is a priority.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site.

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

12. **Landscape works**

Landscaping shall be completed in accordance with the Landscape Plan 1903 sheet 1 of 1, prepared by Outbuild, inclusive of the following requirements:

- i) two medium canopy trees, as listed in the Warriewood Valley Landscape Masterplan Design Guidelines shall be installed to the rear of the property, and one small canopy tree, as listed in the Warriewood Valley Landscape Masterplan Design Guidelines shall be installed to the front of the property,
- ii) the nominated tree planting shall be planted at minimum 75 litre size. Each tree planted is to have a minimum area of 3 metres x 3 metres contained wholly within the site. Canopy trees are to be located a minimum of 4-5 metres from existing and proposed built structures,
- iii) 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, a landscape report prepared by a landscape architect or landscape designer 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 of consent.

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

13. **Stormwater Disposal**

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

14. **Revised Landscape Works**

Landscaping will be done so in accordance with Landscape Plan 1903 Sheet 1, inclusive of the following planting requirements:

- o One (1) medium canopy tree, as listed in the Warriewood Valley Landscape Masterplan



- Design Guidelines shall be installed to the rear of the property.
- One (1) small canopy tree, as listed in the Warriewood Valley Landscape Masterplan Design Guidelines shall be installed to the front of the property.

Prior to the issue of an Occupation Certificate, a landscape report prepared by a suitably qualified landscape architect or landscape designer will be submitted to the Principal Certifying Authority to ensure the landscape works have been completed in accordance with the landscape plan provided and inclusive of the planting of two (2) canopy trees.

Reason: to maintain and enhance landscape amenity.

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

15. **Landscape maintenance**

All landscape components are to be maintained for the life of the development. 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.

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

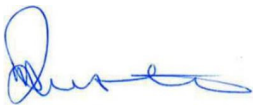
16. **Environmental and priority weed control**

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

Reason: preservation of environmental amenity.

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

**Signed**



**Megan Surtees, Planner**

The application is determined on 19/07/2019, under the delegated authority of:



**Matthew Edmonds, Manager Development Assessments**