

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

<b>Application Number:</b>	DA2021/0132
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<b>Responsible Officer:</b>	Jordan Davies
<b>Land to be developed (Address):</b>	Lot 18 DP 270907, 22 Baz Retreat 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>	Alana Catherine Sahakian
<b>Applicant:</b>	Clarendon Homes Pty Ltd

<b>Application Lodged:</b>	19/03/2021
<b>Integrated Development:</b>	No
<b>Designated Development:</b>	No
<b>State Reporting Category:</b>	Residential - Single new detached dwelling
<b>Notified:</b>	26/03/2021 to 09/04/2021
<b>Advertised:</b>	Not Advertised
<b>Submissions Received:</b>	1
<b>Clause 4.6 Variation:</b>	Nil
<b>Recommendation:</b>	Approval

<b>Estimated Cost of Works:</b>	\$ 505,519.00
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### PROPOSED DEVELOPMENT IN DETAIL

The proposal seeks consent for the construction of a two-storey dwelling, double garage and associated landscaping, including fencing.

### 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 - D16.1 Character as viewed from a public place  
 Pittwater 21 Development Control Plan - D16.5 Landscaped Area for Newly Created Individual Allotments  
 Pittwater 21 Development Control Plan - D16.6 Front building lines

## SITE DESCRIPTION

<b>Property Description:</b>	Lot 18 DP 270907 , 22 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 regular in shape with slightly arched frontage of 11.06m along Baz Retreat and a depth of 27.23m. The site has a surveyed area of 333.8m<sup>2</sup>.</p> <p>The site is located within the R3 Medium Density Residential zone from PLEP 2014 and is currently a vacant allotment as the result of a recent subdivision.</p> <p>The site has a minor cross fall of north to south (i.e.. rear to front) of approximately 1.7m.</p> <p>Adjoining and surrounding development is characterised by recently constructed free-standing houses and vacant allotments.</p>

Map:



## SITE HISTORY

### Development Application N0182/13

This application for the 40 lot subdivision of existing sites and demolition of existing structures was refused on 30 December 2013.

### Appeal of Development Application N0182/13

An appeal of development application N0182/13 was upheld with the Land and Environment Court of NSW 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, on 15 October 2014.

### Subdivision Certificates SC2018/0058 & SC2018/0060

These Subdivision Certificates were approved by Council on 12 March 2019.

## 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 Matters for Consideration'	Comments
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)(iiiia) – 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 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 matter has been addressed via a condition of consent.</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>
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>(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</p>

Section 4.15 Matters for Consideration'	Comments
	<p>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>
Section 4.15 (1) (c) – the suitability of the site for the development	The site is considered suitable for the proposed development.
Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Notification & Submissions Received” in this report.
Section 4.15 (1) (e) – the public interest	No matters have arisen in this assessment that would justify the 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 26/03/2021 to 09/04/2021 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 1 submission/s from:

Name:	Address:
Ms Melissa Brady	3/9 Nicholson Street BALMAIN EAST NSW 2041

The following issues were raised in the submissions and each have been addressed below:

- Visual Privacy and overlooking from first floor leisure room window, northern elevation, which will look at the southern elevation bedroom window on 24 Baz Retreat.

The matters raised within the submissions are addressed as follows:

- *Visual Privacy and overlooking from first floor leisure room window, northern elevation, which will look at the southern elevation first floor bedroom window on 24 Baz Retreat.*

Comment:

The leisure room window has a raised sill height of 1.6m, which is considered a suitable response to limit direct views between properties by the raised sill height and will not cause unreasonable overlooking impacts or privacy impacts between properties. The proposal is therefore consistent with the privacy controls and outcomes under the Pittwater DCP.

## 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 nor within the road verge which supported a footpath constructed under subdivision approval as part of the Warriewood Valley Landscape Masterplan. 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>The lot was created as part of an approved subdivision within the Warriewood Valley release area. The site has been previously cleared and is not within or interface with the riparian zone or portion of the parent lot mapped as Biodiversity under the Pittwater LEP 2014. The development will not have a significant effect on biodiversity and therefore no further assessment is required.</p>
NECC (Development Engineering)	<p>No objections subject to conditions</p>
NECC (Stormwater and Floodplain Engineering – Flood risk)	<p>This property is not flood affected.</p>
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. The application is recommended for approval.</p> <p>Site coverage is less than the maximum 65% allowed under the WMR and the stormwater plan prepared by Storm Civil meets requirements.</p> <p>Care must be taken with sediment and erosion controls 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.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice. These recommendations will be included as a condition of consent.</p>

## **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. 1148811S\_02 dated 23 February 2021). The BASIX Certificate is supported by an ABSA Assessor Certificate (see Certificate No. 0005330162 dated 23 February 2021).

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

<b>Commitment</b>	<b>Required Target</b>	<b>Proposed</b>
<b>Water</b>	40	40
<b>Thermal Comfort</b>	Pass	Pass
<b>Energy</b>	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 who responded determining that no response or conditions were required.

**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:	10m	7.761m	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
4.3 Height of buildings	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	3m	N/A	Yes
	Articulation zone 4m	3.9m	2.5%	No
	Garage 3m Dwelling	3.391m	N/A	Yes
Rear building line	4.0m (Ground floor)	4m	N/A	Yes



	6.0m (First Floor)	6m	N/A	Yes
Side building line	0.9m Ground floor	1.9m	N/A	Yes
	1.5m First floor North west	2m	N/A	Yes
	0.9m Ground floor	1m	N/A	Yes
	1.5m First floor South east	2.5m	N/A	Yes
Landscaped area	35% (116.83m <sup>2</sup> ) Minimum dimension 4m	14.4% or 47m <sup>2</sup>	58.9%	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:  $38/40 \times 100 = 95$  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
B5.15 Stormwater	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	Yes	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
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.3 View Sharing	Yes	Yes
C1.4 Solar Access	Yes	Yes
C1.5 Visual Privacy	Yes	Yes
C1.6 Acoustic Privacy	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

Clause	Compliance with Requirements	Consistency Aims/Objectives
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	No	Yes
D16.7 Side and rear building lines	Yes	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	Yes	Yes
D16.13 Building colours and materials	Yes	Yes
D16.14 Pets and companion animals	Yes	Yes

### Detailed Assessment

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

##### Garage Door Width

The control requires that the garage door shall only be a single door width or maximum of 3m, for lots less than 12.5m in width. The subject lot is 11.4m in width measured at the building line and a double garage is proposed, with a door width of 4.8m.

##### Merit Consideration

The double garage door is considered on merit below:

- The dwelling is well articulated and there is sufficient lot width to accommodate a double garage without the facade being dominated by the garage door. The top floor protrudes over the garage entrance which reduces the dominance of the garage upon the street and recesses it into the building form.
- The construction of a double garage does not further reduce the ability for on-street parking. The driveways is of a width that allows the retention of one onstreet parking space at the front of the site and therefore, the double garage does not further reduce on-street parking.
- The double garage provides additional off-street parking for the residence and hence, reducing the demand for on-street parking for the street. This is considered a benefit of the development in an area that does not have a high level of public transport and relies upon private vehicles.
- The double garage is contained fully within the side setback controls and still allows for landscape planting within the front setback to meet the intended streetscape controls and provide tree planting within the front setback. The double garage does not result in an amenity impact for surrounding properties.

Overall, the proposed double garage does not have a detrimental impact to the area with regards to streetscape, landscaping or car parking. Therefore, it is considered reasonable in the circumstance to allow the construction of a double garage notwithstanding the inconsistency with the numerical control.

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

Clause D16.5 of the Pittwater 21 Development Control Plan (P21 DCP) requires at least 35% (116.83m<sup>2</sup>) of the site area to be landscaped. In calculating this percentage, all landscaped areas with dimensions less than 4m x 4m are excluded from the calculation. The proposed landscaped area represents 14.4% (47m<sup>2</sup>) of the site area when including those areas 4m x 4m, which fails to satisfy this requirement. The proposal represents a 58.9% variation to the landscaping control.

However, it is noted that the proposal, when considering all landscaped areas including those less than 4m x 4m, the proposal includes 42.2% landscaping (140.7m<sup>2</sup>), in excess of the minimum. Council's water quality team have reviewed the proposal and advise that the amount of landscaping proposed satisfies the requirements of water management for Warriewood Valley (see referral earlier in this report). The areas provided are reasonable to allow landscape planting and recreation for the residents, despite being less than 4m in dimension.

### Merit Assessment

With regard to the consideration for a variation, the proposed development is considered against the underlying outcomes of the control as follows:

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

#### Comment:

The site is part of a recent subdivision and is currently devoid of any trees and contains no significant vegetation. The proposed landscaped plan does not satisfy the landscape controls of Clause D16.5 Landscaped Area for Newly Created Individual Allotments. A condition is imposed to provide adequate tree planting and shrub screen planting within the front setback to minimise the built form of the dwelling and to provide adequate privacy between dwellings for the occupants.

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

#### Comment:

The site does provide a generous front setback and provides adequate area for deep soil planting within the front setback. The planting proposed with the landscape plan will contribute to an attractive streetscape.

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

#### Comment:

The supporting landscape plan will ensure the site provides a high quality landscape setting, which will enhance the ecological amenity of the locality.

- *The area of site disturbance is minimised.*

#### Comment:

The excavation works required to facilitate the development are minimal and will ensure the site

will not be disturbed.

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

Comment:

The minimum dimensions of 4m x 4m is difficult to achieve due to the constraints of the small allotment. Landscape areas as defined under the PLEP 2014 means a part of the site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area. When landscaping is calculated on this basis, the total landscaped area will represent 42.2% (140.7m<sup>2</sup>) of the site area. The proposed landscaped area is suitable for a constrained allotment and will assist with stormwater infiltration, thereby reducing stormwater runoff.

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

Comment:

The landscaped areas throughout the site consist of deep soil areas, which are suitable for canopy tree planting.

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

Comment:

As proposed development provides generous area for deep soil planting and landscaping within the front setback. The supporting landscape plan will also ensure protected street trees along Baz Retreat are retained and with one small tree to be planted in the front yard. These various landscape treatments within the front setback area will soften the visual impacts of the built form and in turn, contribute to an attractive streetscape.

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

Comment:

The supporting landscape plan will ensure shrub screen planting is provided at the rear of the property for private opens space. The dwelling has been designed to ensure any windows at first floor along both side elevations are appropriately positioned and will have a minimal impact on the privacy and amenity of the neighbouring property at 20 or 24 Baz Retreat.

Having regard to the above assessment, it is concluded that the applicable outcomes of the control have been achieved. Therefore, the application is supported on merit.

## **D16.6 Front building lines**

Clause D16.5 of the P21 DCP requires a minimum 4m to be provided from the front boundary to the garage. in the case of this application, the proposal provides for 3.9m to the garage, representing a 2.5% variation.

## Merit Assessment

With regard to the consideration for a variation, the proposed development is considered against the underlying outcomes of the control as follows:

- *To achieve the desired future character of the Locality.*

Comment:

The proposal includes a typical two storey dwelling that is consistent with the character envisaged for the Warriewood Valley Locality. Coupled with the proposed landscaping, the reduced front setback is negligible and will be indiscernible from the public domain. Review of recent approvals within the area, including at No 20 finds the proposal to be consistent in character with other similar approved dwellings.

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

Comment:

The area of site disturbance generated by the garage setback non-compliance is negligible and will not adversely impact the amount of soft surface provided for within the front setback. The supporting landscape plan demonstrates sufficient soft surface will be provided within the setback area.

- *The bulk and scale of the built form is minimised.*

Comment:

The bulk and scale of the built form is representative of a typical medium density residential dwelling that largely complies with the built form controls, including building height. As noted above, a review of similar approvals nearby, including at No 20 finds a comparative built form.

- *To achieve a consistent built form alignment in the streetscape, which is spacious and attractive, enhanced by tree planting within the front setback.*

Comment:

The alignment of the proposed dwelling and garage relative to other approvals in the area, most notably at No 20 to the south-east will remain consistent within the streetscape, providing for a spacious and attractive streetscape character that will be adequately landscaped.

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

Comment:

Any views or vistas enjoyed from the subject site or adjacent/nearby sites will not be unreasonably impacted by the proposal, including the front setback variation.

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

Comment:

The front setback will continue to be adequately landscaped (refer to landscape plan). Further, conditions of consent requiring tree and shrub planting within the setback will screen the visual

impact of the built form.

- *Encourage tandem carparking opportunities on narrow lots and minimise the visual prominence of parking structures in the streetscape.*

Comment:

The proposed dwelling will provide for sufficient off-street parking in the form of a double garage. The double garage will be integrated into the design of the dwelling with suitable colours and materials used to minimise the visual prominence of the garage in the streetscape.

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

Comment:

A reasonable level of privacy, amenity and solar access will continue to be provided within the development site and to neighbouring properties. As discussed above, the setback non-compliance is minimal and will not adversely impact amenity of adjoining properties.

Having regard to the above assessment, it is concluded that the applicable outcomes of the control have been achieved. Therefore, the application is supported on merit.

## **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 DA2021/0132 for Construction of a Dwelling House on land at Lot 18 DP 270907, 22 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>
Site Plan, Sheet 2, Rev F	31/8/2020	Clarendon Homes
Ground Floor Plan, Sheet 3, Rev F	31/8/2020	Clarendon Homes
First Floor Plan, Sheet 4, Rev F	31/8/2020	Clarendon Homes
West and South Elevations, Sheet 5, Rev F	31/8/2020	Clarendon Homes
East and North Elevations, Sheet 6, Rev F	31/8/2020	Clarendon Homes
Section A-A, Sheet 7, Rev F	31/8/2020	Clarendon Homes
Construction Management Plan & Erosion and Sediment Control Plan, Sheet 2.1, Rev F	31/8/2020	Clarendon Homes

<b>Engineering Plans</b>		
<b>Drawing No.</b>	<b>Dated</b>	<b>Prepared By</b>
Stormwater Management Plan, Dwg No 2	28/10/2020	StormCivil

<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, 1148811S_02	23/2/2021	Energi Thermal

		Assessors Pty Ltd
Schedule of Colours and Materials	8/12/2020	Lifestyle Studio by Clarendon Homes

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 of 4	26/10/2020	Dapple Designs
Landscape Plan, Sheet 2 of 4	26/10/2020	Dapple Designs
Landscape Plan, Sheet 3 of 4	26/10/2020	Dapple Designs
Landscape Plan, Sheet 4 of 4	26/10/2020	Dapple Designs

<b>Waste Management Plan</b>		
<b>Drawing No/Title.</b>	<b>Dated</b>	<b>Prepared By</b>
Waste Management Plan	10/2/2021	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.

## 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.

## FEES / CHARGES / CONTRIBUTIONS

### 4. Security Bond

A bond (determined from cost of works) of \$2,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required 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, and 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

### 5. **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

### 6. **Protection of Existing Street Trees**

All existing street trees in the vicinity of the works, including on the other side of the road carriageway shall be retained during all construction stages in accordance with Section 4 of Australian Standard 4970-2009 Protection of Trees on Development Sites.

Should any problems arise with regard to the existing or proposed trees on public land during construction, Council's Tree Services section is to be contacted immediately to resolve the matter to Council's satisfaction and at the cost of the applicant.

Reason: Street tree protection.

### 7. **Road Reserve**

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

Reason: Public safety.

### 8. **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.

### 9. **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.

10. **Installation and Maintenance of Sediment Control**

Prior to any works commencing on site, including demolition, sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site 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.

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

11. **Landscape Completion**

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

- i) one (1) locally native palm suited to the available landscape area shall be planted within the front setback, selected as *Livistona australis* planted at a 1 metre clear trunk size, to soften the built form and comply with D16.5 Landscaped Area for Newly Created Individual Allotments,
- ii) all trees nominated within the rear setback shall be planted at minimum 75 litre size,
- iii) shrub planting capable of attaining at least 1 metre in height at maturity shall be located along the front boundary within a garden bed contained wholly within the property, prepared with a suitable free draining soil mix and minimum 50mm depth of mulch, and consisting of plants installed at minimum 1 metre intervals and of a minimum container size of 200mm,
- iv) 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.

12. **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.

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. **Landscape Maintenance**

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting.

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 and any conditions of consent.

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

Reason: To maintain local environmental amenity.

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

**Signed**



**Jordan Davies, Planner**

The application is determined on 26/04/2021, under the delegated authority of:



**Lashta Haidari, Acting Development Assessment Manager**