

**SUBJECT: N0030/17 - Future Lot 209 at 53 A & B WARRIEWOOD ROAD, WARRIEWOOD
for the Construction of a dwelling**

SUMMARY OF RECOMMENDATION: DEFERRED COMMENCEMENT APPROVAL

REPORT PREPARED BY:	Daniel Milliken
APPLICATION SUBMITTED ON:	17 January 2017
APPLICATION SUBMITTED BY:	MERRIN DEVELOPMENTS PTY LTD 155 REGENT STREET RIVERSTONE NSW 2765
OWNER(S):	MATILDA IERA FRANCESCO IERA INNIS FALVO

1.0 SITE DETAILS

The subject site to be developed is future Lot 209 which is located at 53 Warriewood Road, Warriewood Valley. The subject site is one of ten future residential lots located within a residential subdivision approved under Development Consent N0350/14 (refer to the Background section of the report for further details).

The residual allotment is bound to the south-west by a future road (an extension of Lorikeet Grove), a riparian zone and Narrabeen Creek. A dwelling, shed and swimming pool are located to the north-east of the residual allotment. The "Ibis Estate" and another residual allotment adjoin the site to the north-west and south-east, respectively.

Vegetation on the future allotment comprises grass lawn areas. A minor slope falls from the road across the subject site and down to the creek. Adjoining and surrounding development is characterised by a mixture of modern and traditional style one and two storey dwelling houses in landscaped settings.

The subject site is zoned R3 - Medium Density Residential, is affected by flood (high hazard) and is bushfire prone.

2.0 PROPOSAL IN DETAIL

Development consent is sought for the construction of a two storey dwelling house, a single garage, driveway, fencing and landscaping works. Specifically, the proposal comprises the following works:

Ground Floor Level

- Single garage, one bedroom, dining/kitchen/living rooms, internal staircase and outdoor deck;
- Driveway and hardstand car parking space located adjacent to garage;
- Boundary fencing;
- Landscaping works the planting of grass lawn areas, shrubs, ferns and trees; Pathways to entry and side elevation bin area; and
- A 2000L rainwater tank as per BASIX requirements.

First Floor Level

- Three bedrooms, ensuite, juliet balcony, bathroom and internal staircase. Demolition of the carport and construction of a double garage and bin enclosure with metal
- Stormwater collected and diverted to stormwater infrastructure (located as per the approved subdivision);
- Low pitch metal skillion roof form enclosed in parapet roof form; and
- External materials and finishes comprising aluminium framed glass doors, windows and balustrades and external cladded walls.

3.0 STATUTORY AND POLICY CONSIDERATIONS

The subject site is located within the R3 Medium Density Residential zone and the proposed works, being the construction of a new dwelling house, is permissible with consent in this zone.

The following relevant state, regional and local policies and instruments

- apply: Environmental Planning and Assessment Act, 1979 (the Act)
- Environmental Planning and Assessment Regulation 2000 (the Regulation)
- State Environmental Planning Policy No. 55 Remediation of Land
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Pittwater Local Environmental Plan 2014 (PLEP 2014)
 - Height of Buildings: K - 10.5M
 - Acid Sulphate Soils Map Area - Area 12
 - Urban Release Area Map - 12
- Pittwater 21 Development Control Plan (P21 DCP)
 - Warriewood Valley
 - Bush Fire Prone Land
 - Geotechnical Risk Management Policy for Pittwater
 - Flood Risk Management Policy for Development in Pittwater

Variation to development standards:

No variation

4.0 BACKGROUND

Development Consent N0350/14

On 9 March 2016, Development Consent N0350/14 was approved by the Land and Environment Court for the subdivision of land at 53, 53A & 54 B Warriewood Road, Warriewood, in two stages.

Stage 1 was a three lot subdivision. Stage 2 is a subdivision of a residual lot from Stage 1 into 13 lots, one lot of which is the subject of this development application. Stage 2 also provides the subdivision site and infrastructure works, including stormwater, roadworks and on-site detention.

5.0 NOTIFICATION

In accordance with Pittwater 21 Development Control Plan (DCP), the subject application was notified for a period of 14 day period between 20 January 2017 and 3 February 2017.

As a result of the notification period, one submission was received from the adjoining property to the north, being No. 10 Ibis Place, Warriewood.

A site inspection revealed that the notification sign was erected.

6.0 ISSUES

- 3.3 Submission of supporting documentation - Site Plan / Survey Plan / Development Drawings
- B3.2 Bushfire Hazard
- B3.16 Flood Hazard - Flood Category 1 - High Hazard

- B4.15 Saltmarsh Endangered Ecological
- Community B6.3 Off-Street Vehicle Parking Requirements
- C1.5 Visual Privacy
- C6.7 Landscape Area (Sector, Buffer Area or Development Site)
- D16.5 Landscaped Area for Newly Created Individual Allotments
- D16.6 Front building lines
- D16.7 Side and rear building lines

7.0 COMPLIANCE TABLE

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

Control	Standard	Proposal	T	O	N
Pittwater Local Environmental Plan 2014					
1.9A Suspension of covenants, agreements and instruments			Y	Y	Y
Zone R3 Medium Density Residential			Y	Y	Y
4.3 Height of buildings	Maximum 10.5m above the flood planning level.	6.5m	Y	Y	Y
Control	Standard	Proposal	T	O	N
4.6 Exceptions to development standards		No variation	-	-	-
5.10 Heritage conservation			-	-	-
6.1 Warriewood Valley Release Area		Assessed in subdivision application.	Y	Y	Y
7.1 Acid sulfate soils		Class 5	Y	Y	Y
7.2 Earthworks			Y	Y	Y
7.3 Flood planning		Please refer to Section 8 Discussion of Issues - B3.16 Flood Hazard - Flood Category 1 - High Hazard section of this report for further discussion.	N	N	Y
7.6 Biodiversity protection			Y	Y	Y
7.10 Essential services			Y	Y	Y
Pittwater 21 Development Control Plan 2014					
3.1 Submission of a Development Application and payment of appropriate fee			Y	Y	Y
3.2 Submission of a Statement of Environmental Effects			Y	Y	Y
3.3 Submission of supporting documentation - Site Plan / Survey Plan / Development Drawings		Submission received. Please refer to Section 8 Discussion of Issues section of this report for further discussion.	Y	Y	N
3.4 Notification			Y	Y	Y

3.5 Building Code of Australia			Y	Y	Y
3.6 State Environment Planning Policies (SEPPs) and Sydney Regional Environmental Policies (SREPs)			Y	Y	Y
4.2 Integrated Development: Rivers, Streams and Foreshores		Referred to relevant authority as "integrated development" as part of the original subdivision application.	-	-	-
A1.7 Considerations before consent is granted			Y	Y	Y
A4.16 Warriewood Valley Locality			Y	Y	Y
B1.4 Aboriginal Heritage Significance		No apparent issues.	Y	Y	Y
B3.2 Bushfire Hazard		Submission received. Please refer to Section 8 Discussion of Issues section of this report for further discussion.	Y	Y	N
B3.6 Contaminated Land and Potentially Contaminated Land			Y	Y	Y
B3.16 Flood Hazard - Flood Category 1 - High Hazard - Low Density Residential		Subject to deferred commencement conditions, finished site levels and finished floor levels will be required to be provided to enable Council to determine if the lot is flood free. Please refer to Section 8 Discussion of Issues section of this report for further discussion.	N	N	Y
B3.25 Flood Hazard - Flood Emergency Response planning		Subject to deferred commencement conditions, finished site levels and finished floor levels will be required to be provided to enable Council to determine if the lot is flood free.	N	N	Y
Control	Standard	Proposal	T	O	N
B4.15 Saltmarsh Endangered Ecological Community		Amended landscape plan required. Please refer to Section 8 Discussion of Issues section of this report for further discussion.	Y	Y	Y
B5.4 Stormwater Harvesting			Y	Y	Y
B5.10 Stormwater Discharge into Public Drainage System			Y	Y	Y
B6.2 Internal Driveways		Driveway design was approved as part of original subdivision application.	Y	Y	Y
B6.3 Off-Street Vehicle Parking Requirements	2 parking spaces required 6.0m single garage 5.5m hardstand space	2 parking spaces provided. garage: 6.0m x 3.45m hardstand: *5.0 x 3.45m * The non-compliance is supported on merit. Submission received. Please refer to Section 8 Discussion of Issues section of this report for further discussion.	N	Y	N

B8.1 Construction and Demolition - Excavation and Landfill			Y	Y	Y
B8.2 Construction and Demolition - Erosion and Sediment Management			Y	Y	Y
B8.3 Construction and Demolition - Waste Minimisation			Y	Y	Y
B8.5 Construction and Demolition - Works in the Public Domain			Y	Y	Y
C1.3 View Sharing			Y	Y	Y
C1.5 Visual Privacy		Satisfactory privacy maintained. Submission discussed in Section 8 - Discussion of Issues section of this report.	Y	Y	N
C1.6 Acoustic Privacy			Y	Y	Y
C1.12 Waste and Recycling Facilities			Y	Y	Y
C1.13 Pollution Control			Y	Y	Y
C1.14 Separately Accessible Structures			-	-	-
C1.17 Swimming Pool Safety			-	-	-
C1.23 Eaves	0.4m wide eaves	Low pitch skillion roof form enclosed in Parapet. Variation supported given narrowness of lot (8.6m) and that nil building lines permissible. Dwelling complies with BASIX requirements.	N	Y	Y
Control	Standard	Proposal	T	O	N
C6.1 Integrated Water Cycle Management		Deferred commencement condition included for the building envelope to be amended so that it is consistent with the model proposed within the Water Management Plan (also as required per Development Consent N0350/14).	Y	Y	Y
C6.2 Natural Environment and Landscaping Principles			Y	Y	Y
C6.3 Ecologically Sustainable Development, Safety and Social Inclusion			Y	Y	Y
C6.5 Utilities, Services and Infrastructure Provision			Y	Y	Y
C6.7 Landscape Area (Sector, Buffer Area or Development Site)		Satisfactory. Please refer to Section 8 Discussion of Issues section of this report for further discussion.	Y	Y	Y
D16.1 Character as viewed from a public place	3.0m. Hardstand in front of single garage.		Y	Y	Y

D16.5 Landscaped Area for Newly Created Individual Allotments	25% of site = 43.0m ² Minimum 3.0m width	8.1% (14m ²) > 3.0m dimension. 31.1% (53.5m ²) < 3.0m dimension Non-compliance supported. Please refer to Section 8 Discussion of Issues section of this report for further discussion.	N	Y	Y
D16.6 Front building lines	4.0m to garage 5.5m to dwelling (tandem parking)	5.0m to garage *4.0m to dwelling * The non-compliance is supported on merit. Please refer to Section 8 Discussion of Issues section of this report for further discussion	N	Y	Y
D16.7 Side and rear building lines (Zero lot line: width <9m)	side: Nil (length <16m) 0.9m (ground) & 1.2m (upper level) other side rear: 4.0m (ground level) & 6.0m (first floor level)	Nil (13m length) 1.6m other side Rear: 4.0m to ground and *first floor levels. * The non-compliance is supported on merit. Please refer to Section 8 Discussion of Issues section of this report for further discussion.	N	Y	Y
D16.9 Solar access			Y	Y	Y
D16.10 Private and Communal Open Space Areas		Communal open space subject to original subdivision application.	Y	Y	Y
D16.11 Form of construction including retaining walls, terracing and undercroft areas			Y	Y	Y
D16.12 Fences		Recommended conditions are included requiring any fencing to allow free flow of flood waters.	Y	Y	Y
D16.13 Building colours and materials			Y	Y	Y
D16.14 Pets and companion animals			Y	Y	Y
State Environmental Planning Policies and other					
Control	Standard	Proposal	T	O	N
SEPP (Building Sustainability Index: BASIX) 2004		Basix Certificate No. 784998S dated 14 December 2016 was submitted with application.	Y	Y	Y
EPA Act 1979 No 203 section 147 Disclosure of political donations and gifts			Y	Y	Y

8.0 DISCUSSION OF ISSUES

- **3.3 Submission of supporting documentation - Site Plan / Survey Plan / Development Drawings**

The submission requested that RL'S should be provided on the submitted plans so that an informed decision can be made on the proposal.

The architectural drawings submitted with the application did not provide Relative Heights (RL's) for the proposed dwelling. However, the drawings were to scale and did provide measurements to enable the height of the building to be determined. The finished ground level of the future site is provided in the approved subdivision for the site. With this information, a complete and proper assessment of the proposal, including the height of

the dwelling, can be carried out.

Notwithstanding the above, a deferred commencement condition is recommended requiring the finished site levels, finished floor levels and relative height of the dwelling be provided via revised and or amended plans. The deferred commencement condition is imposed to enable Council determine if the lot is flood free.

Having regard to the above, the concerns raised above do not warrant the refusal of the application.

- **B3.2 Bushfire Hazard**

The submission raised concerns that inadequate consideration has been provided in relation to the Planning for Bush Fire Protection Act 2006, particularly in relation to construction requirements.

In accordance with the Planning for Bush Fire Protection Act 2006, a bushfire report was submitted with the original and approved subdivision application (i.e. N0350/14). This application proposes to construct a dwelling house on an approved future allotment. In this regard, further assessment of bushfire requirements are not required subject to a Post- Subdivision BAL Certificate (PSBC) being obtained. A suitable condition requiring a PSBC to be obtained prior to occupation of the dwelling is included in the Recommendation.

Therefore, the concerns raised in relation to bushfire do not warrant the refusal or redesign of the application.

- **B3.16 Flood Hazard - Flood Category 1 - High Hazard**

Deferred commencement conditions for Development Consent N0350/14 have not been satisfied to date and therefore the consent has not been activated. As such, Council is not in a position to determine whether the deferred commencement conditions for Development Consent N0350/14 can or will be satisfied, including that the future lots created will be "flood proof".

Having regard to the above, deferred commencement conditions have also been provided for this application requiring the finished site levels and finished floor levels to be provided to enable Council to determine if the lot is flood free.

- **B4.15 Saltmarsh Endangered Ecological Community**

Natural Resource Officer Comments

The property is within a recently subdivided lot and contains no natural vegetation. The proposed landscape plan (sym studio, INTO4, 01-DA-101 Issue B, 9/11/16) includes species which are not appropriate or not compliant with development controls. Therefore an amended landscape plan is required to be submitted prior to issue of the Construction Certificate which removes *Pittosporum tobira* 'Miss muffet' and ensures the proposed species (specifically trees) are compliant with the requirements in DCP Control D16.5.

Planner Comments

Given the recommended deferred commencement conditions requiring an amended landscape plan, the above additional amendments to the landscape plan will also be included as part of a deferred commencement condition.

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

The length of the hardstand parking space is 5.0m which does not comply with the minimum 5.5m requirement of the control. Notwithstanding, the non-compliance is supported for the following reasons:

- the non-compliance is minor, being 9.1% (0.5m), and the parking area can readily accommodate a small to medium standard size car;
- the total length of the dedicated carparking areas provided on site is 11.0m which exceeds more than half the total length of the site (22.0m);

- the hardstand space will adequately serve the parking demand generated by the development.

Having regard to the above, the non-compliance is supported on merit.

Submissions

The submission raised concerns in relation to the higher traffic volume generated by the development, related potential pedestrian safety impacts and potential alternative connections to Warriewood Road by a roundabout.

The proposal is for the construction of a dwelling house with two on-site parking spaces which complies with the car parking requirements of the control. Traffic volume, pedestrian safety issues and vehicle access to Warriewood Road were assessed as part of the original and subsequently approved subdivision and deemed acceptable. Further concern in relation to this matter can be forwarded to the Northern Beaches Council Local Traffic Committee for consideration.

Therefore, the concerns raised above do not warrant the refusal or redesign of the application.

- **C1.5 Visual Privacy**

A submission was received from No. 10 Ibis Place.

The submission raised concerns in relation to privacy impacts arising from overlooking from the first floor level north facing window and juliet balcony of the proposed dwelling. The submissions also question whether proposed landscaping within the rear building line would assist to minimise privacy impacts between neighbours.

The north facing window and juliet balcony relates to a bathroom and bedroom, respectively. A condition is recommended requiring the bathroom window and juliet balcony balustrade to be of obscure glazing. The juliet balcony relates to a bedroom, which is considered a low use room, and privacy is expected to be maintained by the future occupants by means of curtains and/blinds. Also, intervening landscaping, once established, is of a mature height and density to also assist to prevent overlooking between properties.

Subject to the above, an acceptable level of visual privacy for the occupants and neighbours would be achieved. Therefore, the concerns raised in relation to privacy do not warrant the refusal or redesign of the application.

- **C6.7 Landscape Area (Sector, Buffer Area or Development Site)**

The water management plan for the original application was based on 55% site coverage. The on-site detention basin approved was based on approximately 80% site coverage. Therefore, additional hard surface areas in excess of approved subdivision building envelope on individual sites will readily be accommodated within the OSD basin.

A deferred commencement condition is recommended for the building envelope to be amended so that it is consistent with the model proposed within the Water Management Plan (also as required per Development Consent N0350/14).

No Council Engineering concerns raised to additional hard surface areas shown on the future lot.

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

The amount of landscaped area of a minimum width of 3.0m provided on the future site is calculated at 8.1% (14m²) which does not comply with the minimum 25% requirement of the control (i.e. 43m²). Notwithstanding, the non-compliance is supported for the following reasons:

- The future site was approved with a narrow width of 8.2m and this is considered a constraint for the future development of the site to provide landscaped areas of minimum 3.0m width;
- Landscaped areas including areas less than 3.0m is calculated at 31.1%

(53.5m²), and given the narrowness of the site, a satisfactory landscape setting will be provided on the future site;

- The proposal would provide an appropriate landscape setting consistent with that of adjoining and surrounding development, particularly within the front, western side and rear building line area;
- Current vegetation on site comprises unkempt lawn areas and the proposal will provide native trees and vegetation within all setback areas and hence provide an enhanced landscaped setting on-site; and
- The native trees and vegetation proposed will assist to maintain amenity between neighbouring properties.

Having regard to the above, the non-compliance is supported on merit.

Note: The above calculations are based on the Site Plan. A deferred commencement condition is included to relocate trees, shrubs and ground covers away from easement and maintenance areas to enable access. This deferred commencement condition will also require further amendments to the landscape plan including the deletion of pathways which are not shown on the Site Plan. This amendment will ensure consistency between architectural plans and the landscape plan.

• **D16.6 Front building lines**

The front building line to the dwelling is 4.0m which does not comply with the minimum 5.5m requirement of the control. The depth of the future lot is 20.0m and the control notes that a variation to minimum front building line can be considered on merit as this depth is less than 22m.

With regard to the consideration of a variation, the development is assessed as being consistent with the underlying Outcomes of the control as follows:

- The development has been found to be consistent with the desired future character of the Warriewood Valley locality;
- Site disturbance is minimised by the development and appropriate areas of soft landscaping are maintained;
- The dwelling has a maximum height of 6.5m, is two storeys in height and has been satisfactorily articulated with recessive building elements to minimise bulk and scale;
- The proposal will not generate unreasonable or unacceptable adverse amenity impacts on adjoining and surrounding properties and maintains privacy between neighbours and the preservation of views and vistas to and/or from public/private places;
- The lot is narrow in width (i.e. 8.0m) and tandem carparking is provided to minimise the visual prominence of parking structures in the streetscape; and
- The front building line will be consistent with that proposed on adjoining and surrounding (future) lots.

Having regard to the above, the non-compliance is supported on merit.

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

The first floor level has a 4.0m rear building line which does not comply with the minimum 6.0m requirement of the control. Notwithstanding, the variation is supported for the following reasons;

- The height, being 6.5m, and acceptable bulk and scale of the dwelling, will satisfactorily minimise visual outlook impacts on adjoining and surrounding properties;
- The proposal would provide an appropriate landscape setting within the rear building line consistent with that of adjoining and surrounding development;
- Proposed native trees and vegetation within the rear building line will assist to maintain amenity between neighbouring properties;
- Increasing the rear building line to the entire dwelling house would reduce the length of the hardstand car parking within the front building line to less than 5.0m in length, and as a consequence, parking on the hardstand space would not be possible; and

- Requiring a 6.0m rear building line would unreasonably impact on the development potential of the site, particularly given its narrow width.

Having regard to the above, the non-compliance is supported on merit.

9.0 CONCLUSION

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

The 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 21 Development Control Plan
- 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 environmental planning impacts have been satisfactorily addressed.

RECOMMENDATION

That Council as the consent authority pursuant to Section 80 of the Environmental Planning and Assessment Act 1979 grant a deferred commencement consent to Development Application N0030/17 for the Construction of new dwelling on Future Lot 209 at No. 53A & B Warriewood Road, Warriewood, subject to the following draft determination;

Report prepared by

Daniel Milliken
SENIOR PLANNER

