

## DEVELOPMENT APPLICATION ASSESSMENT REPORT

|                            |             |
|----------------------------|-------------|
| <b>Application Number:</b> | DA2022/1914 |
|----------------------------|-------------|

|   |  |
|---|--|
| <b>Responsible Officer:</b>               | Clare Costanzo   |
| <b>Land to be developed (Address):</b>    | Lot 5 DP 1206507, 49 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>                             | Tan Hung Nguyen  |
| <b>Applicant:</b>                         | Residential Logistics Pty Ltd                            |

|                                  |  |
|----------------------------------|--|
| <b>Application Lodged:</b>       | 14/11/2022                                 |
| <b>Integrated Development:</b>   | No   |
| <b>Designated Development:</b>   | No   |
| <b>State Reporting Category:</b> | Residential - Single new detached dwelling |
| <b>Notified:</b>                 | 18/11/2022 to 02/12/2022                   |
| <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> | \$ 670,057.00 |
|---------------------------------|---------------|

### PROPOSED DEVELOPMENT IN DETAIL

The proposal comprises of the construction of a new two storey dwelling house on a vacant allotment. The works are made up of the following:

#### Ground Floor:

- Garage
- Dining and living area
- Bathroom
- Laundry
- Open plan kitchen, meals and family room

First Floor:

- Loungeroom and porch
- Three bedrooms
- Two bathrooms
- Study

## 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 - C1.5 Visual Privacy  
 Pittwater 21 Development Control Plan - D16.5 Landscaped Area for Newly Created Individual Allotments  
 Pittwater 21 Development Control Plan - D16.7 Side and rear building lines  
 Pittwater 21 Development Control Plan - D16.13 Building colours and materials

## SITE DESCRIPTION

|                                   |  |
|-----------------------------------|--|
| <b>Property Description:</b>      | Lot 5 DP 1206507 , 49 Warriewood Road WARRIEWOOD NSW 2102  |
| <b>Detailed Site Description:</b> | <p>The subject site consists of one (1) allotment located on the western side of Warriewood Road, Warriewood.</p> <p>The site is irregular in shape with a frontage of 15.975 along Warriewood Road. The site has north western and south eastern side boundaries measuring 27.355m and 25.825m respectively. The rear boundary measures 12.185m. The total site area is 372m<sup>2</sup>.</p> |

The site is located within the R3 Medium Density Residential zone and is situated within a recently released residential subdivision. The site is currently vacant.

The site has an overall fall of approximately 1m from the front to rear (east to west).

The site has no vegetation or trees.

#### **Detailed Description of Adjoining/Surrounding Development**

Adjoining and surrounding development is characterised by single storey and two storey dwellings which are established along the eastern side of Warriewood Road. The western side of Warriewood Road is undergoing urban development to facilitate residential dwellings, roads and pockets of vegetation. There are two storey residential dwellings on either side of the subject site.

Map:



#### **SITE HISTORY**

The site is a recently registered lot part of the Warriewood Urban Release area. All civil works associated with the subdivision have been completed and the land is burdened by a 2m wide drainage easement along the rear boundary. The land was registered on 20 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   | There are no current draft environmental planning instruments.   |
| 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)(iia) – Provisions of any planning agreement   | None applicable.   |
| Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021)  | <p><u>Part 4, Division 2</u> of the EP&amp;A Regulation 2021 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 29</u> of the EP&amp;A Regulation 2021 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 36 and 94</u> of the EP&amp;A Regulation 2021 allow Council to request additional information. No additional information was requested in this case.</p> <p><u>Clause 61</u> of the EP&amp;A Regulation 2021 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 62 and/or 64</u> of the EP&amp;A Regulation 2021 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 69</u> of the EP&amp;A Regulation 2021 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 69</u> of the EP&amp;A Regulation 2021 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> |
| 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></p> <p>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>   |

| Section 4.15 Matters for Consideration   | Comments  |
|--|---|
|  | <p>(ii) <b>Social Impact</b><br/>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><br/>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 18/11/2022 to 02/12/2022 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

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

| Name:                    | Address:                               |
|--------------------------|--|
| Mr Steven James Rowtliep | 47 Warriewood Road WARRIEWOOD NSW 2102 |

The following issue was raised in the submissions:

- **Privacy**

The submissions raised concerns that windows 4, 15 and 16 along the ground and first floor of the south eastern elevation will result in overlooking into the adjoining property to the south.

Comment:

Window 4 is on the ground level of the proposed dining room and is adjacent to the laundry/mud room of the adjoining property. Given the building separation, proposed 1.8m high fence and the use of the room at the adjoining dwelling it is not considered the window will result in

unreasonable overlooking and as such is supported in its current form.

A condition has been recommended to require window 15 and 16 to be frosted with obscure glazing given their upper storey orientation and potential for overlooking.

## REFERRALS

| Internal Referral Body           | Comments  |
|----------------------------------|---|
| NECC (Bushland and Biodiversity) | <p>The proposal seeks approval for the construction of a new dwelling. The comments on this proposal refer to the following provisions:</p> <ul style="list-style-type: none"> <li>Pittwater LEP 2014 - Clause 7.6 Biodiversity Protection</li> </ul> <p>The proposed development will take place on a previously cleared lot. It is unlikely that native flora and fauna will be impacted by the development.</p> <p>The proposal has been submitted with a planting schedule where adjustments are required.</p>  |
| NECC (Development Engineering)   | No objections to approval subject to conditions as recommended.   |
| NECC (Water Management)          | <p>Supported</p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> <li>Supplied plans and reports;</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021 (clauses 2.8 and 2.12);</li> <li>Relevant LEP and DCP clauses.</li> <li>Water Management Report Rev 7 for 41 Warriewood Road</li> <li>Warriewood Valley Water Management Specification.</li> </ul> <p>The lot is limited to 65% impervious area.</p> <p>The sediment controls are adequate, and they have the appropriately sized rainwater tank for the subdivision. Sediment and erosion controls must be installed prior to any work on site and maintained until work is complete and groundcover re-established. Due to there being an online bio-retention water treatment basin, particular care should be taken to ensure sediment does not wash into the gutter, as the residents will be responsible for cleaning sediment out of the basin in future.</p> |

| External Referral Body                                    | Comments   |
|---|--|
| Ausgrid - SEPP (Transport and Infrastructure) 2021, s2.48 | 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. |



## **ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)\***

All, Environmental Planning Instruments (SEPPs 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 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 (Building Sustainability Index: BASIX) 2004**

A BASIX certificate has been submitted with the application (see Certificate No. 1330455S\_02 dated 25 August 2022).

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

#### **SEPP (Transport and Infrastructure) 2021**

##### Ausgrid

Section 2.48 of Chapter 2 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 raised no objections, subject to conditions which have been included in the recommendation of this report.

#### **SEPP (Resilience and Hazards) 2021**

##### Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. The site is located within a recently constructed residential subdivision where by the

necessary contamination assessment was carried out regarding suitability of the site for residential purposes. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

## 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: | 8.5m        | 8.3m     | 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                          |
| 7.6 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 | 6.5m        | 6.5m (dwelling/garage)       | N/A          | Yes      |
| Rear building line  | 4m          | 4m                           | NA           | Yes      |
| Side building line  | 2.5m        | 1.6m (south eastern)         | 36%          | No       |
|                     | 0.9m        | 1m (north western)           | N/A          | Yes      |
| Landscaped area     | 45%         | 31.5% (117.1m <sup>2</sup> ) | 30%          | No       |

### Compliance Assessment

| Clause  | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| A1.7 Considerations before consent is granted | Yes                          | Yes                         |
|   |                              |                             |



| Clause  | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| A4.16 Warriewood Valley Locality  | Yes                          | Yes                         |
| B1.4 Aboriginal Heritage Significance   | Yes                          | Yes                         |
| B3.6 Contaminated Land and Potentially Contaminated Land                              | Yes                          | Yes                         |
| B4.15 Saltmarsh Endangered Ecological Community                                       | Yes                          | Yes                         |
| B5.15 Stormwater  | Yes                          | Yes                         |
| B6.3 Off-Street Vehicle Parking Requirements  | No                           | Yes                         |
| B8.1 Construction and Demolition - Excavation and Landfill                            | Yes                          | Yes                         |
| B8.3 Construction and Demolition - Waste Minimisation                                 | Yes                          | Yes                         |
| B8.4 Construction and Demolition - Site Fencing and Security                          | Yes                          | Yes                         |
| B8.5 Construction and Demolition - Works in the Public Domain                         | Yes                          | Yes                         |
| B8.6 Construction and Demolition - Traffic Management Plan                            | Yes                          | Yes                         |
| C1.2 Safety and Security  | 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                         |
| C1.7 Private Open Space   | 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                         |
| D16.8 Spatial Separation  | 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   | No                           | Yes                         |
| D16.14 Pets and companion animals   | Yes                          | Yes                         |

#### Detailed Assessment

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

The required internal dimensions of a double garage are 6m x 5.7m under the Pittwater DCP.

The proposed garage internal dimensions are 5.91m x 5.63m and represent a minor departure from the control. Although non-compliant with the DCP, the minimum internal dimensions specified by the Australian Standard are still achieved and the garage is considered to provide adequate functionality. A minimum of two spaces are provided in accordance with the DCP.

### **C1.5 Visual Privacy**

The proposed development generally achieves compliance with the requirements of this control. However, the proposed windows along the south eastern elevation to the internal stairway will potentially result in overlooking into the adjoining dwelling. In this instance, a condition will be recommended to ensure the following windows, being W.15 and W.16, are treated with an opaque glazing so as to reduce the potential for adverse privacy occupants for both the occupants of the subject site, and those of the adjoining property.

#### Merit consideration

*Outcome 1) Habitable rooms and outdoor living areas of dwellings optimise visual privacy through good design.*

#### Comment:

As conditioned, the proposed development will optimise visual privacy through good design.

*Outcome 2) A sense of territory and safety is provided for residents.*

#### Comment:

The proposed development provides a sense of territory and safety for residents.

As conditioned, the proposed development can achieve the underlying objectives of this control. The proposal can be supported on its merits.

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

The proposed development is required to have 45% (167.4m<sup>2</sup>) of landscaped area. In accordance with the control, the minimum dimensions is 4m for areas contributing to the landscaped area calculation. This results in a landscaped area of 31.5% or 117.1m<sup>2</sup>.

The hardsurface pathways adjacent to the dwelling along the north western and south eastern are not included as part of the landscaped calculations.

#### Merit consideration

The proposed site is considered to be relatively small with an area of 372.8m<sup>2</sup> and a width of an average of 14m and a depth of an average of 26m.

There is sufficient area within the front and rear setback to provide the required canopy tree planting.

It is worth noting that the adjoining properties to the north and south were approved with landscaped areas of 39.25% (154.3m<sup>2</sup>) and 30% (119m<sup>2</sup>). Both of these present a non compliance to the landscaped area control.

In consideration for supporting the variation to the landscaped area, an assessment against the outcomes of the control is outlined below:

*Outcome 1) Conservation of significant natural features of the site and contribution to the effective management of biodiversity.*

Comment:

There are no existing site features to be retained following the subdivision and civil construction to create the lot. The site is vacant of trees at this time. The application will require planting in accordance with the approved landscape.

*Outcome 2) Warriewood Valley achieves a unified and high quality landscape character that contributes to the sense of place.*

Comment:

The front of the site will allow for the planting of new hedges and trees. Following completion of the dwelling and landscape planting, the proposal will contribute to a high quality landscape setting for Warriewood Valley.

*Outcome 3) Landscaping promotes ecologically sustainable outcomes, maintaining and enhancing biological biodiversity and ecological processes.*

Comment:

The departure from the landscape percentage control is not considered to limit the opportunity for the regrowth of canopy trees as there are sufficient areas throughout the site to facilitate tree planting.

*Outcome 4) The area of site disturbance is minimised.*

Comment:

The area of cut and fill is limited to the dwelling footprint with areas of fill contained. The remainder of the site is suitable for the establishment of grass and required canopy tree plantings.

*Outcome 5) Stormwater runoff is reduced, preventing soil erosion and siltation of natural drainage*

Comment:

Council's development engineer has reviewed the capacity of the site to appropriately manage stormwater and has raised no concerns subject to conditions of consent. The site benefits from an easement to drain water at the rear which will drain to a regional basin.

*Outcome 6) Landscaped areas should be predominantly areas of deep soil*

Comment:

The areas throughout the site which are landscaped consist of deep soil areas suitable for tree planting and establishment of good quality vegetation.

*Outcome 7) New development is blended into the streetscape and neighbourhood through the retention and enhancement of vegetation.*

Comment:

The site is currently clear of any trees or vegetation. Suitable areas are retained to facilitate future tree planting which will lessen the impact of the built form upon the streetscape. The proposed dwelling is of a scale that is appropriate in the context of the Warriewood urban release area.

*Outcome 8) To ensure a reasonable level of privacy and amenity is provided within the development site and maintained to neighbouring properties.*

Comment:

The proposed dwelling is not considered to have an unreasonable impact on privacy subject to recommended conditions of consent.

The proposed development, given the constraints of the lot size is considered to be consistent with the outcomes of the Pittwater DCP and the variation to the control D16.5 is supported in this instance.

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

The DCP requires a setback to be provided of 2.5m on one side of the proposed dwelling. The proposed dwelling has a setback of 1.6m to the south eastern side boundary which is variation to the Pittwater DCP of 36%.

Given the narrow width and overall size of the site it is considered unreasonable that a new two storey dwelling would achieve full compliance with this control.

Merit consideration

in consideration for supporting the variation to the side setback, an assessment against the outcomes of the control is outlined below:

*Outcome 1) To achieve the desired future character of the locality.*

Comment:

The proposed development is keeping with the desired future character of the locality of Warriewood Valley consisting of a two storey detached dwelling which presents as a contemporary dwelling house.

*Outcome 2) The area of site disturbance is minimised and soft surface is maximised.*

Comment:

Soft landscaping is provided within the front and rear setbacks and within the north western side boundary, The area of disturbance will be minimised through appropriate construction techniques.

*Outcome 3) The bulk and scale of the built form is minimised and the impact of the proposed development on the adjoining properties is minimised.*

Comment:

The bulk and scale of the development is appropriate consisting of a compliant height and two storey built form with a traditional pitched roof. The adjoining future dwellings will receive solar access in line with the control and the use of windows on the upper floor have been limited. A condition has been recommended requiring obscure glazing on window 15 and 16 to ensure a reasonable level of privacy is achieved.

*Outcome 4) To create meaningful breaks between adjoining buildings and regular rhythm of built form, particularly with regard to the built forms presentation to public places.*

Comment:

The proposed dwelling will provide sufficient 'breathing space' between future adjoining dwellings and the minor non-compliance is not considered to be highly noticeable from the street frontage.

*Outcome 5) To create usable curtilage areas around buildings for viable access, landscaping and open space.*

Comment:

The proposal comprises of access footpaths either side of the dwelling for ease of access and suitable space for planting along the north western side boundary. Given the orientation of the block the southern side boundary is not suitable for optimal solar access for landscaping.

*Outcome 6) Equitable preservation of views and vistas to and/or from public/private spaces.*

Comment:

The proposed development will not have any unreasonable impact upon views.

*Outcome 7) Vegetation and natural features of the site is retained and enhanced within the development site design to screen the visual impact of the built form.*

Comment:

Sufficient space is provided within the front and rear of the site for new plantings. Some vegetation is proposed along the north western side boundary. Given the orientation of the dwelling solar access to the south is limited and is therefore not considered an appropriate location for plantings.

*Outcome 8) To ensure a reasonable level of privacy, amenity and solar access is provided within the development site and maintained to neighbouring properties.*

Comment:

Each window along each of the side elevations have been designed to ensure a reasonable level of privacy will be achieved. Privacy is discussed in further detail within C1.5 Visual Privacy of this assessment report.

The proposed development is consistent with the outcomes of the Pittwater DCP and the variation to the control D16.7 is supported in this instance.

### **D16.13 Building colours and materials**

The proposed external colour finishes of the roof, facade and feature columns are in accordance with Clause D16.13 of the Pittwater DCP. However, the use of 'miss universe' and 'surfmist' on the external dwelling and garage door is not in accordance with the DCP requirements.

A condition of consent is recommended requiring the colour of all external elements (including garage door and facias) to consist of a colour not lighter than, or equivalent to, 'windspray'.

### **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 2021;
- 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 DA2022/1914 for Construction of a dwelling house on land at Lot 5 DP 1206507, 49 Warriewood Road, 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 with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent:

##### 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, Floor Plans & Calculations<br>Issue B           | 25 August 2022 | Masterton Homes Pty Ltd |
| Elevations, Section & BASIX<br>Commitments Issue B         | 25 August 2022 | Masterton Homes Pty Ltd |
|  |                |                         |



|                                  |                |                         |
|----------------------------------|----------------|-------------------------|
| Excavation & Fill Plan Issue B   | 25 August 2022 | Masterton Homes Pty Ltd |
| Schedule of Colours and Finishes | 31 August 2022 | Residential Logistics   |

| Engineering Plans             |                   |  |
|-------------------------------|-------------------|--|
| Drawing No.                   | Dated             | Prepared By                              |
| Hydraulic Detail Plan Issue A | 30 September 2022 | Raffletos Zanuttini Consulting Engineers |

| Reports / Documentation – All recommendations and requirements contained within: |                  |                       |
|--|------------------|-----------------------|
| Report No. / Page No. / Section No.  | Dated            | Prepared By           |
| BASIX Certificate No. 1330455S_02  | 25 August 2022   | Residential Logistics |
| Waste Management Plan  | 8 September 2022 | Residential Logistics |

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

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

| Landscape Plans        |                 |                             |
|------------------------|-----------------|-----------------------------|
| Drawing No.            | Dated           | Prepared By                 |
| Hardscape Plan Issue B | 21 October 2022 | Conzept Landscape Architect |
| Landscape Plan Issue B | 21 October 2022 | Conzept Landscape Architect |
| Details Issue B        | 21 October 2022 | Conzept Landscape Architect |
| Specification Issue B  | 21 October 2022 | Conzept Landscape Architect |

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. Compliance with Other Department, Authority or Service Requirements

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

| Other Department, Authority or Service | EDMS Reference            | Dated            |
|--|---------------------------|------------------|
| Ausgrid                                | Ausgrid Referral Response | 21 November 2022 |

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

### 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 Certifier 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 Certifier 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 Certifier 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) 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 an 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**

### **5. 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 Certifier 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. Stormwater Disposal**

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent, prepared by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to the existing inter allotment drainage easement benefiting the site.

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

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

### **7. Amendment of Landscape Plans**

The submitted Landscape Plan is to be amended in accordance with the following:

- Deletion of *Raphiolepis indica*

The amended Landscape Plan is to be certified by a qualified landscape architect and provided to the Certifier prior to issue of the Construction Certificate.

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site.

8. **Stormwater Treatment Measures – Minor**

The applicant must install a filtration device (such as a sediment control pit or absorption trench) that captures organic matter and coarse sediments prior to discharge of stormwater from the land. All stormwater treatment measures must make provision for convenient and safe regular inspection, periodic cleaning, and maintenance.

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

Reason: Protection of the receiving environment.

9. **Amendments to the approved plans**

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

- Window 15 and Window 16 shall be frosted with obscure glazing.

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

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

10. **Boundary Identification Survey**

A boundary identification survey, prepared by a Registered Surveyor, is to be prepared in respect of the subject site.

The plans submitted for the Construction Certificate are to accurately reflect the property boundaries as shown on the boundary identification survey, with setbacks between the property boundaries and the approved works consistent with those nominated on the Approved Plans of this consent.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of any Construction Certificate.

Reason: To ensure all approved works are constructed within the subject site and in a manner anticipated by the development consent.

11. **Vehicle Crossings Application**

The Applicant is to submit an application for driveway levels with Council in accordance with Section 138 of the Roads Act 1993. The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

12. **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 Certifier prior to the issue of the Construction Certificate.



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

**13. External Finishes to Roof**

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

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

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

**14. Sydney Water "Tap In"**

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

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

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

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

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

**15. External Finishes to Facade**

The external finish colour of the garage and fascias shall consist of a colour not lighter than, or equivalent, to 'windspray'.

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

Reason: To ensure consistency with the colour schedule required under the DCP and surrounding development.

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

**16. 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.

**17. Wildlife Protection**

If construction activity associated with this development results in injury or displacement of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

**18. 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 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.

19. **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 Certifier.

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

20. **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.

21. **Waste Management During Development**

The reuse, recycling or disposal of waste during works must be done generally in accordance with the Waste Management Plan for this development.

Details demonstrating compliance must be submitted to the Principal Certifier.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

22. **Vehicle Crossings**

The Applicant is to construct **one** vehicle crossing **3.0** metres wide in accordance with Northern Beaches Council Drawing Normal and the driveway levels application approval. An Authorised

Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

A copy of the vehicle crossing inspection form is to be submitted to the Certifier.

Reason: To facilitate suitable vehicular access to private property.

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

**23. 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 Certifier prior to the issue of an Occupation Certificate.

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

**24. No Weeds Imported On To The Site**

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan 2021 – 2026) are to be imported on to the site prior to or during construction works.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

**25. Waste Management Confirmation**

Prior to the issue of an Occupation Certificate, evidence / documentation must be submitted to the Principal Certifier that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

**26. 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 Certifier prior to the issue of an Occupation Certificate.

Reason: Proper identification of buildings.

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

**27. Impervious surfaces restriction**

Connected impervious surfaces (hard surfaces that allow runoff to drain to the stormwater

system rather than to deep soil landscaped areas) on the lot must not exceed 65 percent of the total lot area for the life of the development.

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

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

**Signed**



**Clare Costanzo, Planner**

The application is determined on 06/01/2023, under the delegated authority of:



**Adam Susko, Acting Development Assessment Manager**