



**WRA**

**Warriewood  
Residents  
Association**

**INC 9896003**

Warriewood Residents Association Incorporated  
25 Utingu Place  
BAYVIEW NSW 2104

6 April 2018

Northern Beaches Council  
PO Box 882  
MONA VALE 1660

### **DA 2018/0339 for No 2 Macpherson Street Warriewood**

Attention: Tyson Ek-Moller

This letter represents the view of the Warriewood Residents Association, WAR, towards the Development Application for the site above, 2 Macpherson Street Warriewood

#### **Executive summary**

The Warriewood Residents Association is opposed to this development application on the grounds listed below.

1. Plans are not consistent with claims in the text.
2. Access from the Macpherson Creek bridge is not permitted in the DCP
3. Land dedicated to Council should not be in lieu of Section 94 contributions
4. Building envelope compliance is not demonstrated
5. Landscape area for a number of the allotments is not demonstrated as it should be to conform to the DCP
6. Car parking compliance has not demonstrated it will be effective
7. Solar access to living areas and clothes drying areas has not been demonstrated
8. The close nature and likely configuration of windows would suggest that the requirements for privacy cannot be achieved
9. We ask that the Council does not accept a "Concept" application without first confirming that what is claimed can be achieved, because the obligation on compliance could then fall onto purchasers that have no knowledge of undertakings contained in the DA.

The WRA agreed with the Warriewood Valley Strategic Review and supported Pittwater Council's decision that the site Dwelling Yield is zero. We opposed the government awarding the site a dwelling yield. However, this is not the reason why we make this objection. We believe that new developments must comply with the DCP, and therefore be fit and appropriate for Sydney in 2018.

## Statement of objection

The WRA has studied the application and the attached documentation and do not agree with the arrangement of the allotments and other aspects proposed for this site.

## Reasons for objection

### Plan layouts submitted

The documents presented to the community contain two different layouts of the subdivision. The plan Number 22053 B / Revision C prepared by B & P Surveys is the latest and therefore must be the one that is considered as the application.

We note there is also a separate Development Application for the earthworks on this site before Council and this is not considered in this submission.

### Entry from Macpherson Street

C6.24 Buffer Areas 1a to 1m – Additional specifications controls – Warriewood Valley Release Area

#### *Access arrangements*

*No vehicle access including driveways, onto Macpherson Street to provide a safe approach to the bridge across Narrabeen Creek.*

The condition C6.10 also states, "*No new vehicular access including driveways, is permitted onto Macpherson Street to ensure a safe approach to the bridge across Narrabeen Creek.*" If these conditions are ignored by Council or the Planning Panel and allow access then there should be only one entry/exit from the site because the construction of the Macpherson Street bridge was intended to facilitate good traffic flow along the street. Has there been any study to show what affect the flood path down the street to Narrabeen Creek will do when it meets the driveway to the site? The area is subject to regular flooding as is well documented. Who will be liable for the resulting damage?

### Lot 24 Dedicated to Council

This lot when dedicated to Council should be in a stable and tidy condition to the profiles required, and not involve a Section 94 money swap for the land that was always unusable for building. Similarly there must be guaranteed access for maintenance of the floor way.

### DCP Compliance Schedule D16.5 Building Envelope – Warriewood Valley Residential Sectors

*Buildings must be sited within a building envelope with planes projected at 45 degrees from a height of 3.5 metres above ground level (existing) at the side boundaries, and at 3 metres from the rear boundary, to the maximum building height applicable.*

The response the applicant provided is "*To be addressed as part of future DAs for buildings.*" Council should request that this be demonstrated considering that the most allotments are 10.244m wide and have the adjoining house on the boundary. See also D16.13 Solar Access.

### DCP Compliance Schedule D16.6 Landscaped Area - Single Dwellings

*The total landscaped area on individual residential allotments must be 45% of the site area.*

The response the applicant provided is *“To be addressed as part of future DAs for buildings.”* Council should request that this be demonstrated considering at present the area not built upon is unclear and some sites appear, from the limited information provided, to be below the 45% required in D16.6.

### DCP Compliance Schedule D16.11 Location and design of car parking facilities – Warriewood Valley Residential Sectors

*Covered car space structures such as garages and carports must be setback a minimum of 5.5m or 6.5m from the front property boundary.*

The response the applicant provided is *“To be addressed in DAs for future buildings.”* The drawings show that the buildings are set back 4.0m from the boundary which fails the DCP schedule D16.11.

The street frontage to the small allotments is generally 10.224m. This inevitably results in either a tandem garage or a single garage with a car parked across the footpath. The front of the buildings is shown as being 4m from the boundary so this is the only solution. Because of this short distance (AS 2890 2.4m x 5.4m) the extra 1.4m will block the footpath and endanger all road and path users, therefore this should not be considered as a ‘pass’ for this condition. To say in the report that this condition is ‘noted’ is not the sort of acceptable answer that the Northern Beaches Council should sanction.

There are no visitor parking spaces, footpaths and no indication of how the lots 2, 3, 22&23 get access. It is our understanding that the Strategic Review has a prohibition on multi-gutter crossings in new developments, other than where the crossings are from interior road layouts. Similarly there is no provision for box trailers, boats and all the other equipment now parked on the streets. Good design would say that this should be achieved on this site and not on public roads.

### DCP Compliance Schedule D16.13 Solar access – Warriewood Valley residential sectors

*Windows to the principal living area of the proposal, and windows to the principal living area of adjoining dwellings, are to receive a minimum of 4 hours of sunlight between 9am and 3pm on June 21st (that is to at least 50% of the glazed area of those windows.)*

The response the applicant provided is *“To be addressed in future DAs for buildings.”* and

*The existing/proposed private open space within the subject property and the existing/proposed private open space of any adjoining dwellings are to receive a minimum of 4 hours of sunshine*

*between 9am and 3pm during midwinter. This shall be a reasonable area giving consideration to existing site constraints and block size. Where the adjoining residential land is vacant, at least 50% of the rear yard area of the adjoining land is to receive sunshine in accordance with this control.*

The response the applicant provided is *“To be addressed in future DAs for buildings.”*

This condition is unlikely to be met when the buildings are constructed. The houses are likely to be two storeys to justify the small allotment and the high cost of the land. Examination of the orientation of the houses is East/West and the sun is in the North so simple geometry will show that the north facing walls to the buildings in allotments other than 12 & 13 will require unique design flair to have the required sun penetration required by this condition, not to mention the benefit of good solar access to modern building and community expectations.

*Sunshine to clothes drying areas is to be maximised.*

The response the applicant provided *“Can comply”* As the claim is made that this *“can comply”* then this should be demonstrated before approval in either the 3m wide rear yard or in the 2.5m alley access.

#### Pittwater 21 DCP – Privacy

*Private open space areas including swimming pools and living rooms of proposed and any existing adjoining dwellings are to be protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation as shown in the diagram below (measured from a height of 1.7 metres above floor level).*

*Elevated decks and pools, verandahs and balconies should incorporate privacy screens where necessary and should be located at the front or rear of the building.*

*Direct views from an upper level dwelling shall be designed to prevent overlooking of more than 50% of the private open space of a lower level dwelling directly below.*

The plans show that there is 3m + 3m between the rear walls of the small lot dwellings. That is 6m from wall to wall and window to window. Further considering that these 3m wide spaces will have to accommodate clothes drying racks, garbage storage areas, garden sheds and the like. And these are the only private and significant open spaces provided (apart from the street frontage), what privacy is accorded the occupants? We doubt that this condition can be achieved because the buildings are so congested that it will not be possible to make a suitable and friendly living environment expected in modern Sydney.

#### **Future Council liability**

If the Council ignores their own development standards then when owners make application to build on these sites the Council must then allow non-conformity. This situation is not acceptable to the orderly planning and governance expected from a local authority. The Council could possibly make compliance with each and every condition a special condition that cannot be overturned by those who wish to build on this site in the future.

However, the flood problem will not diminish with this development, and those who ignore it are

placing the community at risk. Council commissioned reports have been used, and that data then used by many consultants, to justify the flood levels, modification and filling of the flood ways, and changes to the natural landforms to increase density, and this must be of continued concern to NBC. There will have to be continuing vegetation removal as a minimum.

### **Dwelling yield**

The Warriewood Valley Strategic Review considered the site and allocated it a dwelling yield of zero (no development potential area Buffer 1m). This site has long been known, to all involved, as being unsuitable for building because of the flood danger. The WRA agreed with this decision to allocate a zero yield as did the Department of Planning when they endorsed the Strategic Review. We also note that the Department of Planning ruled that one of the now many schemes for this site was refused because the proposal did not follow the outcome of the Strategic Review, and thus this proposition for changing the zone/yield had no Strategic Merit.

This site is an important detention area for the downstream sections of Narrabeen Creek and this is why the land was given the present zero dwelling yield. It is not unreasonable to expect that to change this would place the organisations having carriage of the matter at some risk should the high value developments downstream suffer flood damage.

As we know the Planning Panel dismissed the considered views of both the Northern Beaches Council and the community and changed the dwelling yield but not the DCP.

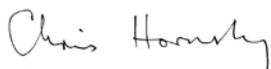
To restate our position regarding development on this site, the WRA supported the outcome of the Strategic Review and has maintained, along with the local community the position that all development should be controlled by the 2013 Strategic Review of the Warriewood Valley.

### **Conclusion**

We consider that there is far too much non-compliance in this proposal for the Council to ignore. These problems are not minor variations from the Pittwater Development Control Plans. The fact that the Planning Panel upturned the orderly planning process in giving the owners a dwelling yield should not be used to create a situation where these dwellings do not conform with current DCP or standards expected by the community in 2018.

To ignore the controls in the DCP sets a precedent and must foster a feeling within the community of distrust in the new Council's ability to uphold their own planning and building controls.

Yours faithfully,



**Chris Hornsby**  
**President WRA**

cc. Members of WRA, All Northern Beaches Councillors, Hon Rob Stokes MP for Pittwater.