

9 August 2023



Damian John Spinks  
PO Box 7228  
LEURA NSW 2780

Dear Sir/Madam

**Application Number:** DA2022/2102  
**Address:** Lot 86 DP 11809 , 8 Walsh Street, NORTH NARRABEEN NSW 2101  
**Proposed Development:** Demolition works and subdivision of one (1) lot into two (2) lots

Please find attached the Notice of Determination for the above mentioned Application.

Please be advised that a copy of the Assessment Report associated with the application is available on Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

Please read your Notice of Determination carefully and the assessment report in the first instance.

If you have any further questions regarding this matter please contact the undersigned on 1300 434 434 or via email quoting the application number, address and description of works to [council@northernbeaches.nsw.gov.au](mailto:council@northernbeaches.nsw.gov.au)

Regards,



Adam Richardson  
**Manager Development Assessments**

## NOTICE OF DETERMINATION

<b>Application Number:</b>	DA2022/2102
<b>Determination Type:</b>	Development Application

### APPLICATION DETAILS

<b>Applicant:</b>	Damian John Spinks
<b>Land to be developed (Address):</b>	Lot 86 DP 11809 , 8 Walsh Street NORTH NARRABEEN NSW 2101
<b>Proposed Development:</b>	Demolition works and subdivision of one (1) lot into two (2) lots

### DETERMINATION - REFUSED

<b>Made on (Date)</b>	02/08/2023
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### Reasons for Refusal:

#### 1. Clause 4.6 Pittwater LEP 2014

The Panel is not satisfied that:

- a) the applicant's written request under clause 4.6 of the Pittwater Local Environmental Plan 2014 seeking to justify a contravention of clause 4.1 Minimum Subdivision Lot Size has adequately addressed and demonstrated that:
  - i) compliance with the standards is unreasonable or unnecessary in the circumstances of the case; and
  - ii) there are sufficient environmental planning grounds to justify the contraventions.
- b) the proposed development will be in the public interest because it is consistent with the objectives of the standards and the objectives for development within the zone in which the development is proposed to be carried out.

#### 2. Desired Future Character

Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause A4.14 Warriewood Locality (Desired Future Character) of the Pittwater 21 Development Control Plan.

#### Particulars:

The undersized allotments will not satisfy the requirements of the Desired Future Character for

Warriewood, which seek to retain the existing "low-intensity" character of the area. Further, the applicant has failed to provide any specific details of future development on these under-sized allotments, to demonstrate how the proposed allotments will achieve the low-intensity character of the area.

### **3. Minimum Building Area**

Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause B2.2 Subdivision - Low Density Residential Areas of the Pittwater 21 Development Control Plan.

#### Particulars:

An inadequate minimum building area is provided on Proposed Lot 1. The application has therefore failed to provide sufficient information that future development can be accommodated on the proposed allotments, consistent with the NSW Land and Environment Court Planning Principle "Subdivision - When a residential subdivision application should impose constraints on future development" [Parrott v Kiama Council [2004] NSWLEC 77]

### **4. Off-Street Parking Facilities**

Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities of the Pittwater 21 Development Control Plan.

#### Particulars:

There is insufficient information provided to determine if future development on the site can provide adequate off-street car parking and not have adverse impact on the surrounding local road network.

### **5. Amenity and Design**

Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C4.7 Subdivision - Amenity and Design of the Pittwater 21 Development Control Plan.

#### Particulars:

Insufficient information has been provided to determine if the under-sized allotments proposed will not have an adverse impact on the amenity of the surrounding area.

### **6. Site Interface Amenity**

The proposed landlocked rear allotment is likely to lead to interface amenity issues with neighbouring properties due to the nature of the site and adjoining developments.

## Request a review of the determination

If you are dissatisfied with this determination, you may request a review of the determination:

- You do not have the right to request a review of the determination under section 8.3 of the EP&A Act if you are excluded from those developments listed under Section 8.2(2) of the EP&A Act.
- You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

## Rights to appeal

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

## Objector's right of appeal against the determination

An objector who is dissatisfied with the consent authority's determination to grant consent, in relation to Designated Development only has the right to appeal to the Court against the determination under section 8.8 of the EP&A Act within 28 days after the date that the objector was notified of the determination appealed against.

## Dictionary

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.

### Signed

On behalf of the Consent Authority



Name

Adam Richardson, Manager Development Assessments

Date

02/08/2023