

DEVELOPMENT APPLICATION ASSESSMENT REPORT

Application Number:	DA2018/1243
Responsible Officer:	Ashley Warnest
Land to be developed (Address):	Lot Y DP 402956, 85 Powderworks Road NORTH NARRABEEN NSW 2101
Proposed Development:	Construction of a detached secondary dwelling
Zoning:	E4 Environmental Living
Development Permissible:	Yes
Existing Use Rights:	No
Consent Authority:	Northern Beaches Council
Land and Environment Court Action:	No
Owner:	Lief Adam Purves Ward Amelia Kate Lisette Ward
Applicant:	Lief Adam Purves Ward
Application lodged:	23/07/2018
Integrated Development:	No
Designated Development:	No
State Reporting Category:	Residential - New second occupancy
Notified:	31/07/2018 to 16/08/2018
Advertised:	Not Advertised
Submissions Received:	4
Recommendation:	Approval
Estimated Cost of Works:	\$ 95,000.00

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 - C1.19 Incline Passenger Lifts and Stairways

Pittwater 21 Development Control Plan - D11.7 Side and rear building line

Pittwater 21 Development Control Plan - D11.11 Landscaped Area - Environmentally Sensitive Land

SITE DESCRIPTION

Property Description:	Lot Y DP 402956 , 85 Powderworks Road NORTH NARRABEEN NSW 2101
Detailed Site Description:	<p>The subject site consists of one (1) allotment located on the northern side of Powderworks Road.</p> <p>The site is irregular in shape with a frontage of 17.38m along Powderworks Road and a depth of 59.8m. The site adjoins Warruga Place Reserve to the rear.</p> <p>The site has a surveyed area of 801.7m² and a slope of 33.2% falling from the south to the north.</p> <p>The site is located within the E4 Environmental Living zone and accommodates Dwelling Houses.</p> <p>The site contains an existing brick two storey dwelling house with a tiled gable roof.</p> <p><u>Detailed Description of Adjoining/Surrounding Development</u></p> <p>Adjoining and surrounding development is characterised by similar one and two storey residential dwellings.</p>

Map:



SITE HISTORY

The land has been used for residential purposes for an extended period of time. A search of Council's records has revealed the following relevant history:

- Modification Application - Mod2017/0333 for the modification of consent N0148/16 granted for additions to existing dwelling including extended decking converting part of the deck into a new room new external stairs paving, Determined 20/02/2018
- Development Application - N0148/16 for additions to existing dwelling including extended decking converting part of the deck into a new room new external stairs paving, Determined 10/08/2016

PROPOSED DEVELOPMENT IN DETAIL

Development consent is sought for the construction of a secondary dwelling.

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	None applicable.

Section 4.15 Matters for Consideration'	Comments
Section 4.15 (1) (a)(iii) – Provisions of any development control plan	Pittwater 21 Development Control Plan applies to this proposal.
Section 4.15 (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 4.15 (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	<p>Division 8A of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters have been addressed via a condition of consent.</p> <p>Clause 50(1A) of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This clause is not relevant to this application.</p> <p>Clauses 54 and 109 of the EP&A Regulation 2000, Council requested additional information and has therefore considered the number of days taken in this assessment in light of this clause within the Regulations. No additional information was requested.</p> <p>Clause 92 of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition of consent.</p> <p>Clauses 93 and/or 94 of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This matter has been addressed via a condition of consent.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition of consent.</p> <p>Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition of consent.</p> <p>Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This clause is not relevant to this application.</p>
Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) Environmental Impact</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. In summary, the proposed development is found to be consistent with the desired future character for the locality and relevant locality specific controls. The proposed secondary dwelling is</p>

Section 4.15 Matters for Consideration'	Comments
	<p>respectful to the site and the adjoining neighbours.</p> <p>(ii) Social Impact The proposed development will not have a detrimental social impact in the locality considering the character of the proposal.</p> <p>(iii) Economic Impact 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 as the key characteristics of the site, including its location, orientation, aspect, character, size, and topography make the site suitable for residential development of the type proposed, which is consistent with the zoning of the land and predominantly complying with the DCP controls that applicable to the subject site.
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. The public interest is best served by the orderly and economic use of land for purposes which are permissible and which, in their design, configuration and operation, satisfy the intent of the relevant controls. In the subject case, the proposal is in the public interest.

EXISTING USE RIGHTS

Existing Use Rights are not applicable to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the relevant Development Control Plan.

As a result of the public exhibition process council is in receipt of 4 submission/s from:

Name:	Address:
Mr Paul Anthony Skelly	4 Warruga Place NORTH NARRABEEN NSW 2101
Mr Matthew Thomas Murphy	83 Powderworks Road NORTH NARRABEEN NSW 2101
Mrs Kathryn Mary Skelly	4 Warruga Place NORTH NARRABEEN NSW 2101
Mr Craig Michael Conaty	43 Truscott Street NORTH RYDE NSW 2113

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

- Not consistent with zone objectives
- Visual and acoustic privacy
- Access to secondary dwelling
- Stormwater runoff and potential overflow
- Parking availability
- Outdated Geotechnical report with plans that do not reflect existing development
- Floor area of secondary dwelling exceeds 25% of the total floor area of the principal dwelling
- Breach of the rear setback requirement
- No landscape plan

The matters raised within the submissions are addressed as follows:

- **Not consistent with zone objectives**

Concerns were raised that the proposed secondary dwelling is not a low density development and it is not integrated with the landscape.

Comment:

The proposed secondary dwelling is consistent with the objectives of the E4 Environmental Living zone in the following ways:

- The proposal complies with the floor area, height, building envelope controls, with secondary dwellings permitted with consent. The proposal therefore is considered a low-impact residential development.
- A result of this compliance and imposed conditions the development does not adversely impact the solar access, view sharing, privacy, and amenity experienced by the residents of the adjoining dwellings.
- Whilst the rear portion of the development is elevated it is considered integrated with the landform and landscape as the development does not rely on excessive excavation to meet the requirements of the controls.
- The site is not located within the riparian and foreshore areas.

- **Visual and acoustic privacy**

Concerns were raised with the potential impacts on visual privacy to the dwellings at 83 Powderworks Road and 3 and 4 Warruga Place. Concerns were also raised with regards to the use of the balcony and the associated noise generation.

Comment:

A review of the privacy was undertaken and mitigation measures have been imposed to address the concerns raised. The window of Bedroom 1 and the kitchen window are to have a sill height of 1.6m to ensure no direct views to the adjoining dwellings can be attained from the secondary dwelling. Screen planting is also to be incorporated along the northern rear boundary as well as along the eastern and western side boundaries. Subject to imposed conditions a reasonable level of privacy can be maintained.

The existing and enhanced vegetation will aid in minimising any additional noise produced from the use of the secondary dwelling. A reasonable level of privacy can be achieved. Section C1.5 of this report discusses these concerns further.

- **Access to secondary dwelling**

Concerns were raised that the secondary dwelling would be primarily accessed via Warruga place and through the adjoining reserve and no fencing proposed to prevent/ minimise access. Concerns were also raised that access for the purposes of construction is to be gained via Warruga Place Reserve.

Comment:

Access to the secondary dwelling is to be gained via Powderworks Road. The orientation of the secondary dwelling and the proposed stairway allows access to and from Powderworks Road. No fencing is proposed as part of this application therefore does not form part of this assessment. The construction of a new fence is a civil matter in accordance to the Dividing Fences Act 1991 No 72. Consent has not been granted for use of the reserve for construction purposes. A Working on and Access to Reserves Application form would need to be completed and approved if access is required.

- **Stormwater runoff and potential overflow**

Concerns were raised with regards to the potential increase in stormwater runoff and overflow of the rainwater tank. Concerns with the proximity of the development to the sewerage inspection hole were also raised.

Comment:

Updated stormwater plans were provided in support of the application and have been assessed by Council's Development Engineering team. Council is satisfied that the proposal is consistent with the relevant planning controls to reduce stormwater runoff. The incorporation of the OSD tank will capture overflow from the rainwater tank.

The proposed works are setback 2m from the sewerage inspection point. The inspection point is a Sydney Water asset and a condition of consent will be imposed to ensure that Sydney Water is satisfied that the development will not adversely impact any of their assets.

- **Parking availability**

Concerns were raised with the lack of a third space provided on-site for the occupants of the secondary dwelling.

Comment:

A third space dedicated for the use of the occupants of the secondary dwelling has not been proposed. Powderworks Road has limited on-street parking however, two side streets in the vicinity of the subject site (Amelia Place and Cooleena Road) can support sufficient on-street parking for the secondary dwelling without reducing the opportunities for adjoining dwellings. The provision of an additional parking space would be difficult to achieve due to the location of the existing dwelling and carport and the steep topography of the site. Section B6.3 of this report discusses this matter further.

- **Outdated Geotechnical report with plans that do not reflect existing development**

Concerns were raised that the Geotechnical Report provided does not assess the proposed works. Concerns were also raised that the plans provided do not accurately reflect the existing development on-site.

Comment:

An updated Geotechnical report was requested and has been provided that references the proposed works. It is noted that the plans provided for the assessment of the application do not identify the recent works done in association with a past Development Application N0148/16. Development appears to be consistent with the approved plans and has been assessed when calculating landscaped area and other relevant controls.

- **Floor area of secondary dwelling exceeds 25% of the total floor area of the principal dwelling**

Concerns were raised with size of the secondary dwelling as the floor area of secondary dwelling exceeds 25% of the total floor area of the principal dwelling.

Comment:

The total floor area of the secondary dwelling does not exceed 60m² and therefore complies with the requirements of Clause 5.4 of PLEP 2014.

- **Breach of the rear setback requirement**

Concerns were raised with the potential impact resulting from the breach in the rear setback controls.

Comment:

The proposed rear setback does not comply with the 6.5m setback requirement. The variation is considered reasonable as the proposed location minimises excavation whilst maintaining a reasonable level of privacy to the adjoining dwellings. Section D11.7 of this report provides further discussion on this matter.

- **No landscape plan**

No landscape plan has been provided in support of the application.

Comment:

Whilst no landscape plan has been provided for assessment conditions of consent have been imposed to provide a variety of planting including screen planting.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Building Assessment - Fire	The application has been investigated with respects to aspects

Internal Referral Body	Comments
and Disability upgrades	<p>relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development subject to inclusion of the attached conditions of approval and consideration of the notes below.</p> <p>Note: The proposed development may not comply with some requirements of the BCA and the Premises Standards. Issues such as this however may be determined at Construction Certificate Stage.</p>
Landscape Officer	<p>The landscape component of the proposal is acceptable subject to completion of landscaping and protection of existing trees and vegetation.</p> <p>Council's Landscape section has assessed the proposal against the following Pittwater 21 DCP 2014 Controls:</p> <ul style="list-style-type: none"> • C1.1 Landscaping • C1.11 Secondary Dwellings and Rural Worker's Dwellings • D11.14 Construction, Retaining walls, terracing and undercroft areas
NECC (Bushland and Biodiversity)	<p>Council's Bushland and Biodiversity section considers the Development Application to be consistent with the following Pittwater 21 DCP 2014 Controls:</p> <ul style="list-style-type: none"> • B4.3 Flora and Fauna Habitat Enhancement Category 2 Land <p>Outcomes: Conservation, enhancement and/or creation of habitats for locally native flora and fauna to ensure the long-term viability of locally native flora and fauna and their habitats.</p> <ul style="list-style-type: none"> • B4.22 Preservation of Trees and Bushland Vegetation <p>Outcomes: To protect and enhance the urban forest of the Northern Beaches. To effectively manage the risks that come with an established urban forest through professional management of trees. To minimise soil erosion and to improve air quality, water quality, carbon sequestration, storm water retention, energy conservation and noise reduction. To protect, enhance bushland that provides habitat for locally native plant and animal species, threatened species populations and endangered ecological communities. To promote the retention and planting of trees which will help enable plant and animal communities to survive in the long-term. To protect and enhance the scenic value and character that trees and/or bushland vegetation provide.</p>
NECC (Development Engineering)	<p>The submitted Geotechnical report is not acceptable as the proposed development referred to in the report is not consistent with the submitted architectural plans. Also the proposed method of stormwater disposal has not been assessed by the Geotechnical</p>

Internal Referral Body	Comments
	<p>Engineer which is required due to the geotechnical hazard for this property. The proposed increase in impervious area exceeds 50 square metres and as such on-site stormwater detention (OSD) is required for the development. The submitted stormwater design does not include a design for the OSD system. In accordance with the DCP this development requires 3 parking spaces however there are only 2 available on the site. As the SEPP does not require the additional parking space it is considered that this deficiency is to be assessed by planning.</p> <p>Development Engineering cannot support the application as there is insufficient information to address clauses B3.1 and B5.7 of Pittwater 21 DCP 2014.</p> <p>Additional Information Received 18/12/2018</p> <p>The revised drainage plan detailing the provision of OSD is satisfactory. The letter from the Geotechnical Engineer is noted. No objection to approval, subject to conditions as recommended.</p>
Parks, reserves, beaches, foreshore	<p>The proposal is acceptable.</p> <p>As outlined in the Landscaping referral, landscaping is necessary along the boundary of the property and Warruga Place reserve to delineate the boundary and to prevent the development privatising the reserve.</p>
Property Management and Commercial	<p>The proposal is for the construction of a two bedroom secondary dwelling to the rear of the property.</p> <p>Property has no objections to the proposal as submitted.</p>

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	<p>The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no objections are raised and no conditions are recommended.</p>

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIS)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPS), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPS), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans

(SREPs)

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 938850S). The BASIX Certificate indicates that the development will achieve the following:

Commitment	Required Target	Proposed
Water	40	40
Thermal Comfort	Pass	Pass
Energy	50	50

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

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	Complies
Height of Buildings:	5.5m	4.7m	Yes

Compliance Assessment

Clause	Compliance with Requirements
1.9A Suspension of covenants, agreements and instruments	Yes
4.3 Height of buildings	Yes
5.4 Controls relating to miscellaneous permissible uses	Yes
5.10 Heritage conservation	Yes
7.1 Acid sulfate soils	Yes
7.2 Earthworks	Yes
7.7 Geotechnical hazards	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	N/A	N/A	Yes
Rear building line	6.5m	2m	69.2%	No

Side building line	2.5m	2.5m	N/A	Yes
	1m	1m	N/A	Yes
Building envelope	3.5m	Within envelope	N/A	Yes
	3.5m	Within envelope	N/A	Yes
Landscaped area	60%	49.7%	17.2%	No

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for Landscaped area - Divide the proposed area by the numerical requirement then multiply the proposed area by 100 to equal X, then 100 minus X will equal the percentage variation. Example: $38/40 \times 100 = 95$ then $100 - 95 = 5\%$ variation)

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
A1.7 Considerations before consent is granted	Yes	Yes
A4.11 North Narrabeen Locality	Yes	Yes
A5.1 Exhibition, Advertisement and Notification of Applications	Yes	Yes
B1.3 Heritage Conservation - General	Yes	Yes
B1.4 Aboriginal Heritage Significance	Yes	Yes
B3.1 Landslip Hazard	Yes	Yes
B3.6 Contaminated Land and Potentially Contaminated Land	Yes	Yes
B4.3 Flora and Fauna Habitat Enhancement Category 2 Land	Yes	Yes
B4.22 Preservation of Trees and Bushland Vegetation	Yes	Yes
B5.7 Stormwater Management - On-Site Stormwater Detention	Yes	Yes
B5.8 Stormwater Management - Water Quality - Low Density Residential	Yes	Yes
B5.10 Stormwater Discharge into Public Drainage System	Yes	Yes
B5.12 Stormwater Drainage Systems and Natural Watercourses	Yes	Yes
B6.1 Access driveways and Works on the Public Road Reserve	Yes	Yes
B6.2 Internal Driveways	Yes	Yes
B6.3 Off-Street Vehicle Parking Requirements	No	Yes
B8.1 Construction and Demolition - Excavation and Landfill	Yes	Yes
B8.2 Construction and Demolition - Erosion and Sediment Management	Yes	Yes
B8.3 Construction and Demolition - Waste Minimisation	Yes	Yes
B8.4 Construction and Demolition - Site Fencing and Security	Yes	Yes
B8.5 Construction and Demolition - Works in the Public Domain	Yes	Yes
C1.1 Landscaping	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

Clause	Compliance with Requirements	Consistency Aims/Objectives
C1.7 Private Open Space	Yes	Yes
C1.11 Secondary Dwellings and Rural Worker's Dwellings	Yes	Yes
C1.12 Waste and Recycling Facilities	Yes	Yes
C1.19 Incline Passenger Lifts and Stairways	No	Yes
C1.23 Eaves	Yes	Yes
D11.1 Character as viewed from a public place	Yes	Yes
D11.3 Building colours and materials	Yes	Yes
D11.6 Front building line	Yes	Yes
D11.7 Side and rear building line	No	Yes
D11.9 Building envelope	Yes	Yes
D11.11 Landscaped Area - Environmentally Sensitive Land	No	Yes
D11.14 Construction, Retaining walls, terracing and undercroft areas	Yes	Yes
D11.15 Scenic Protection Category One Areas	Yes	Yes

Detailed Assessment

B6.3 Off-Street Vehicle Parking Requirements

One (1) additional off-street parking space has not been provided on-site for the secondary dwelling which does not comply with the requirement for a total of three (3) spaces to be provided in accordance with B6.3 of P21 DCP. A reduction in the car parking requirements for a secondary dwelling may be considered on merit where it is demonstrated the outcomes of the Clause are achieved. The outcomes are achieved in the following ways:

- The existing two (2) off-street parking spaces provide for functional parking that minimises rainwater runoff and environmental impacts. To facilitate an additional parking space a substantial increase in hardsurfaced area would be required. In addition, providing a parking space that is compliant with the relevant planning controls would be difficult to achieve due to the location of the existing dwelling and carport and the steep topography of the site.
- A pedestrian footpath runs along the southern side of Powderworks Road that provides safe movement for pedestrians along Powderworks Road. Utilising the existing parking arrangement and on-street parking along Amelia Place and Cooleena Road the proposal will not have a detrimental effect upon pedestrian and vehicle safety
- The existing parking arrangement provides for a safe and convenient parking for the residents at 85 Powderworks Road.

Powderworks Road has limited on-street parking in the immediate vicinity of the site however two side streets Amelia Place and Cooleena Road can support sufficient on-street parking for the secondary dwelling without reducing the opportunities for adjoining dwellings. With consideration of the above the variation to the off-street parking requirements are considered reasonable.

C1.5 Visual Privacy

The proposed secondary dwelling presents visual privacy concerns as there will be opportunities for overlooking the private open space of the adjoining properties. Privacy concerns have additionally been

raised by the adjoining residents with regards to the proximity and overlooking of bedrooms, living rooms and private open space.

The window of bedroom one overlooks the private open space of 83 Powderworks Road. To ensure views are obstructed a condition of consent will be imposed for the window to have a minimum sill height of 1.6m.

The kitchen window, due to the elevated rear of the secondary dwelling, overlooks the private open space at 4 Warruga Place. To minimise overlooking the window is to have a minimum sill height of 1.6m.

There is substantial existing screening vegetation located between the dwelling at 4 Warruga Place and the deck of the secondary dwelling. The existing vegetation will sufficiently obstruct direct views to maintain a reasonable level of privacy.

Screen planting is to be incorporated adjacent to the eastern and western bedroom windows to minimise the potential for overlooking. Screen planting is additionally to be incorporated along the northern rear boundary to screen the undercroft area and aid in softening the bulk of the development.

The positioning of the secondary dwelling is considered reasonable as it provides a substantial spatial separation between the adjoining properties at 83 and 87 powderworks road without significantly impacting on the properties at 3 and 4 Warruga Place due to the location of the reserve.

C1.19 Incline Passenger Lifts and Stairways

The proposed stairway is located along the south-east boundary with a nil setback and therefore does not comply with the minimum 2m setback. The proposed stairway is a continuation of an existing stairway that is located 0.4m from the boundary. The adjoining property at 83 Powderworks Road has an existing stairway with a similar positioning.

To ensure the proposed stairway causes minimal visual and acoustic disturbance to the adjoining neighbours the stairway is to maintain a minimum 1m setback to the south-eastern boundary. The re-positioning of the stair way allows for planting and privacy screening opportunities along the boundary to maximise privacy for the residents at 83 Powderworks Road and the future residents of the secondary dwelling.

The subject to conditions the location of the stairway is considered reasonable.

D11.7 Side and rear building line

The proposed part 2.0m/part 4.0m/part 4.7m (and greater) setback from the rear boundary does not comply with the 6.5m requirement. The 4.5m variation for the deck element can be attributed to the available building area as a result of the topography of the site and the irregular block shape. Council may consider a variation to the controls where it is demonstrated the outcomes of the clause are achieved. The outcomes are achieved in the following ways:

- The proposal is consistent with the desired future character of the North Narrabeen Locality
- Bulk and scale is minimised through compliance with the building envelope controls and the retention and enhancement of existing vegetation
- Views will not be impacted upon due to the topography of the site
- The dwelling is single storey, albeit the deck is elevated at its northern extent
- The site adjoins a public reserve to the north and so the elements of the secondary dwelling encroaching within the rear setback do not have a significant amenity issue associated with this

boundary

- An existing 2.0m high continuous screening hedge is situated on the eastern side of the adjoining dwelling at 4 Warruga Place
- A reasonable level of privacy, amenity and solar access is maintained by the residents of the subject site and the adjoining dwellings through the incorporation of screen planting and privacy screening
- The existing streetscape will not adversely be impacted upon as the proposed works can not be seen from Powderworks Road or Warruga Place.

Subject to a condition requiring screening landscaping within the rear setback area, the above the variation to the rear setback is considered reasonable.

D11.11 Landscaped Area - Environmentally Sensitive Land

Proposed

398.4m² or 49.7% (without variation)

485.8m² or 60.6% (including variation)

Required

481m² or 60%

There is a shortfall in landscaped area of 82.6m² (without variation). Clause D11.11 of P21 DCP permits a variation up to 6% of the total site area that is provided as impervious landscape treatment for the purpose of outdoor recreation. The variation also includes impervious areas less than 1m in width. Council may consider these variations where it can be demonstrated that the outcomes of the Clause can be achieved. The outcomes are achieved in the following ways:

- The proposal is consistent with the desired future character of the North Narrabeen Locality
- Bulk and scale of the built form is minimised and softened through compliance with the building envelope and the retention and enhancement of existing vegetation
- A reasonable level of privacy, amenity and solar access is maintained by the residents of the subject site and the adjoining dwellings through the incorporation of screen planting and privacy screening
- On-site water detention and associated stormwater management has been proposed to reduce stormwater runoff
- Soft surfaces and porous materials have been utilised where possible to minimise run-off and assist with stormwater management

For the above reasons the variation to the landscaped area is considered reasonable.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect 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.

POLICY CONTROLS

Pittwater Section 94 Development Contributions Plan

S94 Contributions are not applicable to this application.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;
- Pittwater Local Environment Plan;
- Pittwater Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant Development Consent to DA2018/1243 for Construction of a detached secondary dwelling on land at Lot Y DP 402956, 85 Powderworks Road, NORTH NARRABEEN, subject to the conditions printed below:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By

18-36 Sheet 1, 2, and 3 - All Issue A	23/05/2018	RK Designs
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Engineering Plans		
Drawing No.	Dated	Prepared By
Stormwater Plans 087-W18 Sheets 1, 2, 3, and 4 - All Revision B	07/12/2018	Horizon Engineers

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Geotechnical Report	01/11/2018	Jack Hodgson Consultants Pty. Ltd.

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:

Waste Management Plan		
Drawing No.	Dated	Prepared By
18-36 Sheet 7 - Issue A	23/05/2018	RK Designs

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. Amendments to the approved plans

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

(a) The windows of Bedroom No.1 and 2 are to have a minimum sill height of 1.6m above finished floor level

(b) The kitchen window is to have a minimum sill height of 1.6m above floor level or obscure film applied to the bottom half of the window at the sill height shown on the plans

(c) The stairway adjacent the south-eastern boundary is to maintain a minimum 1m setback to the boundary with privacy screening located along the south-east elevation of the stairway. The privacy screening is to continue for the length of the proposed stairway and to have a minimum height 1.6m with no individual opening more than 30mm wide.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

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

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 Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement

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) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature and no hoist, plant and machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (i) 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.
- (j) 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.

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 \$1,500 and an inspection fee in accordance with Council's Fees and Charges paid as security 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, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

6. **Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by Jack Hodgson Consultants Pty Limited dated 15 March 2016 and their letter dated 30 October 2018 are to be incorporated into the construction plans. Prior to issue of the Construction Certificate, Form 2 of the Geotechnical Risk Management Policy for Pittwater (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

7. Laundry Facilities

The secondary dwelling is required to be provided with clothes washing facilities, comprising of at least one washtub and space in the same room for a washing machine in accordance with Part 3.8.3 of Volume 2 of the Building Code of Australia – Facilities. Details of upgrading are to be included in the Construction Certificate and be implemented prior to the occupation of the building.

Reason: To ensure adequate provision is made to satisfy the performance requirements P2.4.3 of the BCA for suitable sanitary facilities in the premises

8. On-site Stormwater Detention Compliance

The applicant is to submit drainage plans detailing the provision of On-site Stormwater Detention in accordance with Northern Beaches Council's Pittwater 21 DCP 2014 Clauses B5.7 and B5.10 and the concept drawing by Horizon Engineers, drawing number 087-W18 Sheets 1 to 4 Revision B dated 7/12/2018 and the recommendations by Jack Hodgson Consultants Pty Limited dated 15 March 2016 and their letter dated 30 October 2018. Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

9. Construction Management Program

A Construction Management Plan detailing the construction methodology and the means of access shall be prepared and submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate. See also condition in relation to obtaining a permit to gain access over the public reserve should the need arise.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community.

10. Installation and Maintenance of Sediment and Erosion Control

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.

11. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

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

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

12. **External Finishes**

The external finishes 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 Certifying Authority 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.

13. **Sewer / Water Quickcheck**

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

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

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

15. **Maintenance of Road Reserve**

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

Reason: Public Safety.

16. **Access to Reserve**

If access to Warruga Place Reserve is required for the purposes of construction a Working on and Access to Reserves Application is to be lodged with Council prior to works commencing.

Reason: Owners consent and maintenance of Council's asset.

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

17. **Required planting**

a) Existing landscaping not impacted by the works is to remain in place and protected during construction works. Any damage to existing landscaping shall be replaced with like planting.

b) Planting of locally native shrub species to achieve a height to screen the undercroft of the dwelling and to provide suitable screen planting within the rear setback for privacy protection shall be provided as follows:

- i) plants shall be selected to attain a mature height of 3-4 metres above ground level,
- ii) all planting shall be a minimum 200mm pot size, and shall be planted no more than 1 metre apart,
- iii) prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the planting works have been completed in accordance with the conditions of consent.

c) Planting of locally native trees to achieve a height of 6 metres shall be planted within the western and eastern side setbacks to provide screening and buffer planting between the dwelling and the boundaries as follows:

- i) plants shall be selected that are suited to the aspect,
- ii) all planting shall be a minimum 300mm pot size. At least three (3) plants to each boundary shall be installed,
- iii) prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the planting works have been completed in accordance with the conditions of consent.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity

18. **Authorisation of Legal Documentation Required for Onsite Detention**

The original completed request forms (NSW Land Registry standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan) and hydraulic engineers certification. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land.

19. **Registration of Encumbrances for On-site Stormwater Detention**

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land.

20. **Positive Covenant and Restriction as to User for On-site Stormwater Detention**

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Northern Beaches Council's

delegate prior to lodgement with the NSW Land Registry Services. Northern Beaches Council shall be nominated as the party to release, vary or modify such covenant.

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Northern Beaches Council shall be nominated as the party to release, vary or modify such restriction.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure the on-site detention and/or pump system is maintained to an appropriate operational standard

21. Geotechnical Certification Prior to Occupation Certificate

Prior to issue of the Occupation Certificate, Form 3 of the Geotechnical Risk Management Policy is to be completed and submitted to the Principal Certifying Authority.

Reason: To ensure geotechnical risk is mitigated appropriately.

22. Sydney Water

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au <<http://www.sydneywater.com.au>> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

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

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

23. Landscape maintenance

Any existing landscaping required to be retained together with any additional landscaping required by this Consent is to be maintained for the life of the development.

Landscape works shall be maintained for a minimum period of 12 months following practical completion. If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme.

Reason: to maintain local environmental amenity and ensure landscaping continues to soften the built form.

24. **No Planting Environmental Weeds**

No environmental weeds are to be planted on the site. Information on weeds of the Northern Beaches can be found at the NSW WeedWise website (<http://weeds.dpi.nsw.gov.au/>).

Reason: Weed management.

25. **Works to cease if item found**

If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Aboriginal Heritage Office (AHO) and Office of Environment and Heritage (OEH) are to be notified.

Reason: To protect Aboriginal Heritage.

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

Signed



Ashley Warnest, Planner

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



Steven Findlay, Manager Development Assessments