

DEVELOPMENT APPLICATION ASSESSMENT REPORT

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| Application Number: | DA2020/0923 |
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| Responsible Officer: | Nick England |
| Land to be developed (Address): | Lot 13 DP 23390, 11 Ferguson Street FORESTVILLE NSW 2087 |
| Proposed Development: | Construction of a Secondary Dwelling |
| Zoning: | Warringah LEP2011 - Land zoned R2 Low Density Residential |
| Development Permissible: | Yes |
| Existing Use Rights: | No |
| Consent Authority: | Northern Beaches Council |
| Land and Environment Court Action: | No |
| Owner: | Leo Boghossian |
| Applicant: | Planning Design Architecture Pty Ltd |

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| Application Lodged: | 14/08/2020 |
| Integrated Development: | No |
| Designated Development: | No |
| State Reporting Category: | Residential - New second occupancy |
| Notified: | 24/08/2020 to 07/09/2020 |
| Advertised: | Not Advertised |
| Submissions Received: | 0 |
| Clause 4.6 Variation: | Nil |
| Recommendation: | Refusal |

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| Estimated Cost of Works: | \$ 92,600.00 |
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PROPOSED DEVELOPMENT IN DETAIL

The application seeks consent for the following:

- construction of a detached secondary dwelling, with a floor area of 59.4m²;
- demolition of an existing outbuilding ("garage") adjoining the east boundary, behind the existing dwelling; and
- removal of one (1) tree.

The proposed secondary dwelling is to be located over an existing slab, which was the subject of enforcement action by Council. This is discussed in greater detail in the Site History section of this report.

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

Warringah Local Environmental Plan 2011 - 5.4 Controls relating to miscellaneous permissible uses
 Warringah Local Environmental Plan 2011 - 6.4 Development on sloping land
 Warringah Development Control Plan - A.5 Objectives
 Warringah Development Control Plan - B9 Rear Boundary Setbacks
 Warringah Development Control Plan - C4 Stormwater
 Warringah Development Control Plan - C6 Building over or adjacent to Constructed Council Drainage Easements
 Warringah Development Control Plan - E1 Preservation of Trees or Bushland Vegetation
 Warringah Development Control Plan - E10 Landslip Risk

SITE DESCRIPTION

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|-----------------------------------|---|
| Property Description: | Lot 13 DP 23390 , 11 Ferguson Street FORESTVILLE NSW 2087 |
| Detailed Site Description: | <p>The subject site consists of one (1) allotment located on the southern side of Ferguson Street, Forestville.</p> <p>The site is regular in shape with a surveyed area of 689m².</p> <p>The site is located within the R2 Low Density Residential zone and accommodates a single storey dwelling house, detached outbuilding and concrete slab at the rear of the site. A Council stormwater pipe is located adjacent the eastern boundary of the site.</p> <p>The site has northerly aspect with a generally flat topography.</p> |

Vegetation at the rear of the site has been cleared.

Adjoining and surrounding development is characterised by dwelling houses.

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:

EPA2020/0185: A Stop Work Notice was issued on the property on 6 August 2020. The notice related to unauthorised works on site, described in the notice as follows:

"4. An inspection undertaken by Council Officer on 6 August 2020 revealed the following observations:

- Construction of a concrete slab, earthworks and retaining walls within the rear setback of the property."

The subject application only relates to a proposed secondary dwelling, upon which the aforementioned works would support.

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 |
|---|----------|
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| 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 | Draft State Environmental Planning Policy (Remediation of Land) seeks to replace the existing SEPP No. 55 (Remediation of Land). Public consultation on the draft policy was completed on 13 April 2018. The subject site has been used for residential purposes for an extended period of time. The proposed development retains the residential use of the site, and is not considered a contamination risk. |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan | Warringah Development Control Plan 2011 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><u>Division 8A</u> of the EP&A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent. These matters could be addressed via a condition of consent.</p> <p><u>Clause 50(1A)</u> 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><u>Clauses 54 and 109</u> of the EP&A Regulation 2000 allow Council to request additional information. Additional information was requested in relation to overland flow / flood risk and the location of the existing / proposed works in relation to a Council stormwater line on the eastern boundary of the site. Correspondence in relation these matters was sent on both the 1st and 20th of October. Information sent back to Council has since not satisfied these issues.</p> <p><u>Clause 92</u> of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter could be addressed via a condition of consent.</p> <p><u>Clauses 93 and/or 94</u> of the EP&A Regulation 2000 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 98</u> of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter could be addressed via a condition of consent.</p> <p><u>Clause 98</u> of the EP&A Regulation 2000 requires the consent</p> |

| Section 4.15 Matters for Consideration' | Comments |
|---|--|
| | <p>authority to consider the provisions of the Building Code of Australia (BCA). This matter could be 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> |
| <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> | <p>(i) Environmental Impact The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan 2011 section in this report.</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> |
| <p>Section 4.15 (1) (c) – the suitability of the site for the development</p> | <p>The site is considered suitable for the proposed development.</p> |
| <p>Section 4.15 (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs</p> | <p>See discussion on “Notification & Submissions Received” in this report.</p> |
| <p>Section 4.15 (1) (e) – the public interest</p> | <p>This assessment has found the proposal to be contrary to the relevant requirement(s) in regard to:</p> <ul style="list-style-type: none"> • flood risk management; • Council's stormwater infrastructure; and • geotechnical risk management. <p>and will result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community. In this regard, the development, as proposed, is not considered to be in the public interest.</p> |

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 24/08/2020 to 07/09/2020 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 of the application Council received no submissions.

REFERRALS

| Internal Referral Body | Comments |
|--------------------------------|---|
| NECC (Development Engineering) | <p>Comments 13/10/2020 The applicant has not provided a CCTV review/location survey of Councils pipeline which may impact the proposed secondary dwelling proposal as requested previously.</p> <p>Additionally a stormwater overland flow study has not been provided to determine if the proposed development is impacted by overland flow. The application can therefore not be supported.</p> <p>Council's Stormwater Assets: Council's records indicate that the subject property may be/is burdened by a Council stormwater pipeline. As outlined in the Development Application Checklist, the applicant shall demonstrate compliance with Council's Warringah Building Over or Adjacent to Constructed Drainage Systems and Easements Technical Specification. This consists of accurately locating, confirming dimensions including depth and plotting Council's stormwater pipelines and associated infrastructure to scale on the DA plans in accordance with Section 8.1 of this Specification. Council has public Planning Maps online with stormwater information as a reference for detailed stormwater investigations, available under the "Stormwater" overlay map (https://services.northernbeaches.nsw.gov.au/icongis/index.html). Compliance shall be demonstrated with Section 6.1.2 of this Specification, regarding the design of footings of any buildings, structures or any retaining walls located adjacent Council's stormwater infrastructure. A concept cross-sectional plan shall be provided.</p> <p>Overland Flow: The property is shown on Council's best available flood mapping as affected by overland flow flooding. Any future submission shall provide an overland flow flood report to assess the impact of the development with respect to local overland flows. The report shall be prepared by a suitably qualified engineer in accordance with Council's Warringah Water Management</p> |

| Internal Referral Body | Comments |
|------------------------|---|
| | <p>Policy Section 9.3 and shall include, but not be limited to, an address of the following:</p> <p>The site survey and all levels shall be provided to Australian Height Datum (AHD).</p> <p>Catchment plan highlighting the full upstream catchment(s).</p> <p>A detailed analysis for any overland flow paths in both pre-development and post-development conditions, considering the 1% AEP storm.</p> <p>Consideration is to be given to the capacity of existing Council drainage infrastructure with appropriate blockage factors.</p> <p>Submission of plans clearly indicating pre-development and post-development flow path extents for the 1% AEP storm.</p> <p>Any relevant supporting longitudinal and cross-sectional information at appropriate intervals, including at the upstream and downstream property boundaries.</p> <p>Provision of any stormwater models (DRAINS, HEC-RAS) used in assessment, and relevant supporting input and output information.</p> <p>Demonstration of compliance with flood related development controls, in particular Warringah LEP 2011 Section 6.3 and DCP 2011 Section E11.</p> <p>Demonstration that there is no adverse impact to adjoining properties and the road reserve in relation to flood level, velocities and extents.\</p> <p>The 100 year ARI flood level must be established in AHD for the proposed future floor levels which shall be a minimum of 500 mm above the 100 year flood level. This is to ensure that the proposed future dwellings are protected in major storm events.</p> <p>The proposed application cannot be supported by Development Engineering due to lack of information to address:</p> <p>Council's stormwater assets for the development in accordance with clause C6 Building Over or Adjacent to Constructed Council Drainage Easements. The proposal is therefore unsupported.</p> |

| External Referral Body | Comments |
|------------------------|--|
| Ausgrid: (SEPP Infra.) | 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. |

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 55 - Remediation of Land

Clause 7 (1) (a) of SEPP 55 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under Clause 7 (1) (b) and (c) of SEPP 55 and the land is considered to be suitable for the residential land use.

SEPP (Affordable Rental Housing) 2009

State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH) aims to provide new affordable rental housing and retain and mitigate any loss of existing affordable rental housing by providing a consistent planning regime. Specifically, SEPP ARH provides for new affordable rental housing by offering incentives such as expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards.

Division 2: Secondary dwellings

Clause 19: Definition

Development for the purposes of a secondary dwelling includes the following:

- (a) the erection of, or alterations or additions to, a secondary dwelling,
- (b) alterations or additions to a principal dwelling for the purposes of a secondary dwelling.

Note: The standard instrument defines secondary dwelling as follows:

"secondary dwelling means a self-contained dwelling that:

- (a) is established in conjunction with another dwelling (the principal dwelling), and*
- (b) is on the same lot of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling, and*
- (c) is located within, or is attached to, or is separate from, the principal dwelling."*

Comment:

The proposed works are consistent with the definition of a secondary dwelling, as defined under WLEP 2011.

Clause 20: Land to which this Division applies:

| Requirement | Comment |
|--|---|
| This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones, but <i>only if</i> development for the purposes of a dwelling house is permissible on the land: | |
| (a) Zone R1 General Residential, or (b) Zone R2 Low Density Residential, or (c) Zone R3 Medium Density Residential, or (d) Zone R4 High Density Residential, or (e) Zone R5 Large Lot Residential. | Consistent. The site is located within the R2 Low Density Residential and, as such, the proposed use is permissible with consent under WLEP 2011. |

Clause 21: Development to which this Division applies

| Requirement | Comment |
|---|---|
| This Division applies to development, on land to which this Division applies, for the purposes of a secondary dwelling. | Consistent. The development involves the construction of a secondary dwelling, as defined by the Standard Instrument. Therefore, this Division applies. |

Clause 22: Development may be carried out with consent

Development to which this Division applies may be carried out with consent.

| Requirement | Comment |
|---|--|
| (2) A consent authority must not consent to development to which this Division applies if there is on the land, or if the development would result in there being on the land, any dwelling other than the principal dwelling and the secondary dwelling. | An existing single storey residence is located on the land, which will serve as the principal dwelling to the proposed secondary dwelling. |
| (3) A consent authority must not consent to development to which this Division applies unless: (a) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area allowed for a dwelling house on the land under another environmental planning instrument, and (b) the total floor area of the secondary dwelling is no more than 60m ² or, if a greater floor area is permitted in respect of a secondary dwelling on the land under another environmental planning instrument, that greater floor area. | The floor area of the proposed secondary dwelling is estimated at 59.4m ² , which is consistent with this requirement. |
| (4) A consent authority must not refuse consent to development to which this Division applies on either of the following grounds: (a) site area if: (i) the secondary dwelling is located within, or is | Refusal on these grounds is not recommended. |

attached to, the principal dwelling, or
(ii) the site area is at least 450 square metres.

(b) parking if no additional parking is to be provided on the site.

Note: A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (4).

Clause 24: No subdivision

| Requirement | Comment |
|---|--|
| A consent authority must not consent to a development application that would result in any subdivision of a lot on which development for the purposes of a secondary dwelling has been carried out under this Division. | Consistent. This application does not propose any subdivision of the existing allotment. |

Conclusion

The proposed secondary dwelling is consistent with this State policy.

SEPP (Building Sustainability Index: BASIX) 2004

A BASIX certificate has been submitted with the application (see Certificate No. 885738S dated 3 August 2020).

The BASIX Certificate indicates that the development will achieve the following:

| Commitment | Required Target | Proposed |
|------------------------|-----------------|----------|
| Water | 40 | 41 |
| Thermal Comfort | Pass | Pass |
| Energy | 50 | 53 |

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

SEPP (Infrastructure) 2007

Ausgrid

Clause 45 of the SEPP 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. 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.

Warringah Local Environmental Plan 2011

| | |
|--|-----|
| 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 | 3.9m | N/A | Yes |

Compliance Assessment

| Clause | Compliance with Requirements |
|---|------------------------------|
| 4.3 Height of buildings | Yes |
| 5.4 Controls relating to miscellaneous permissible uses | Yes |
| 6.2 Earthworks | Yes |
| 6.4 Development on sloping land | No |

Detailed Assessment

5.4 Controls relating to miscellaneous permissible uses

The floor space of the secondary dwelling is estimated at 59.4m², consistent with this provision of WLEP 2011. The applicant has provided a written request to vary a development standard, on the assumption that the secondary dwelling exceeds the 60m² floor area requirement. This document is not relevant as the floor area of the secondary dwelling has been calculated in this assessment to not exceed 60m².

6.4 Development on sloping land

Insufficient information has been provided to determine if the proposed works will not have an adverse geotechnical risk on adjoining properties.

Warringah Development Control Plan

Built Form Controls

| Built Form Control | Requirement | Proposed | % Variation* | Complies |
|--------------------|-------------|----------|--------------|----------|
|--------------------|-------------|----------|--------------|----------|

| | | | | |
|---|------|--------------------------|-----|-----|
| B1 Wall height | 7.2m | 3.9m | N/A | Yes |
| B3 Side Boundary Envelope | 4m | No breach | N/A | Yes |
| | 4m | No breach | N/A | Yes |
| B5 Side Boundary Setbacks | 0.9m | 1.8m (east) | N/A | Yes |
| | 0.9m | 3.9m | N/A | Yes |
| B7 Front Boundary Setbacks | 6.5m | 33.5m | N/A | Yes |
| B9 Rear Boundary Setbacks | 6m | 0.9m | 85 | No |
| D1 Landscaped Open Space (LOS) and Bushland Setting | 40% | 293m ² or 42% | N/A | Yes |

***Note:** The percentage variation is calculated on the *overall* numerical variation (ie: for LOS - 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 |
|--|------------------------------|-----------------------------|
| A.5 Objectives | No | No |
| B1 Wall Heights | Yes | Yes |
| B3 Side Boundary Envelope | Yes | Yes |
| B5 Side Boundary Setbacks | Yes | Yes |
| B7 Front Boundary Setbacks | Yes | Yes |
| B9 Rear Boundary Setbacks | No | Yes |
| C2 Traffic, Access and Safety | Yes | Yes |
| C3 Parking Facilities | Yes | Yes |
| C4 Stormwater | No | No |
| C5 Erosion and Sedimentation | Yes | Yes |
| C6 Building over or adjacent to Constructed Council Drainage Easements | No | No |
| C7 Excavation and Landfill | Yes | Yes |
| C8 Demolition and Construction | Yes | Yes |
| C9 Waste Management | Yes | Yes |
| D1 Landscaped Open Space and Bushland Setting | Yes | Yes |
| D2 Private Open Space | Yes | Yes |
| D6 Access to Sunlight | Yes | Yes |
| D7 Views | Yes | Yes |
| D8 Privacy | Yes | Yes |
| D9 Building Bulk | Yes | Yes |
| D10 Building Colours and Materials | Yes | Yes |
| D11 Roofs | Yes | Yes |
| D12 Glare and Reflection | Yes | Yes |
| D14 Site Facilities | Yes | Yes |
| | | |

| Clause | Compliance with Requirements | Consistency Aims/Objectives |
|---|------------------------------|-----------------------------|
| D20 Safety and Security | Yes | Yes |
| D21 Provision and Location of Utility Services | Yes | Yes |
| E1 Preservation of Trees or Bushland Vegetation | Yes | Yes |
| E10 Landslip Risk | No | No |

Detailed Assessment

A.5 Objectives

The proposed works will not comply with the stormwater management and Council infrastructure requirements of this policy. Hence, the proposal is not consistent with the objectives of this Policy.

B9 Rear Boundary Setbacks

Description of non-compliance

The rear setback from the south boundary of the secondary dwelling is 0.9m, which represents an 85% variation with the minimum requirement.

Merit consideration:

With regard to the consideration for a variation, the development is considered against the underlying Objectives of the Control as follows:

- *To ensure opportunities for deep soil landscape areas are maintained.*

Comment: Sufficient areas of landscaped open space are provided around the site to achieve this objective.

- *To create a sense of openness in rear yards.*

Comment: The works are single storey and the secondary dwelling will occupy half of the rear setback area. Hence, this objective is met.

- *To preserve the amenity of adjacent land, particularly relating to privacy between buildings.*

Comment: The proposed works will not result in any adverse amenity impact to adjoining dwellings, in regard to: privacy, overshadowing or visual impact.

- *To maintain the existing visual continuity and pattern of buildings, rear gardens and landscape elements.*

Comment: The location of the secondary dwelling is not inconsistent with surrounding areas of private open space, particularly in the context of the existing approved dual occupancy dwelling to the east of the site, at No.9A Ferguson Street.

- *To provide opportunities to maintain privacy between dwellings.*

Comment: There will be no adverse privacy impact on the adjoining dwellings to the south of the site, as windows and openings are sized and orientated in a sufficient manner to ensure visual privacy to adjoining properties.

Having regard to the above assessment, it is concluded that the proposed development is consistent with the relevant objectives of WDCP 2011 and the objectives specified in section 5(a) of the Environmental Planning and Assessment Act, 1979. Accordingly, this assessment finds that the proposal is supported, in this particular circumstance.

C4 Stormwater

Council correspondence to the applicant has requested an overland flow report be provided, to demonstrate that there will be adverse impact on the proposed development and adjoining properties. This information has not been provided and therefore refusal of the application is recommended.

C6 Building over or adjacent to Constructed Council Drainage Easements

The applicant has not provided sufficient information to demonstrate that the adjoining Council stormwater line on the eastern boundary of the site will not be effected by the proposed works.

E1 Preservation of Trees or Bushland Vegetation

Whilst the application states that consent is sought for the removal of a "small tree" on the site, the location of the tree is not shown on the plans. A tree at the rear of the site was removed as part of the un-authorised works.

E10 Landslip Risk

Insufficient information has been provided to determine if the proposed secondary dwelling will not pose a geotechnical risk to adjoining properties.

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.

POLICY CONTROLS

Northern Beaches Section 7.12 Contributions Plan 2019

As the estimated cost of works is less than \$100,001.00 the policy is not applicable to the assessment of 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;
- Warringah Local Environment Plan;
- Warringah 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, in this regard the application is not considered to be acceptable and is recommended for refusal.

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

- Inconsistent 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
- Inconsistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development does not satisfy the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council, as the consent authority REFUSE Development Consent to Development Application No DA2020/0923 for the Construction of a Secondary Dwelling on land at Lot 13 DP 23390,11 Ferguson Street, FORESTVILLE, for the reasons outlined as follows:

1. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 6.4 Development on Sloping Land of the Warringah Local Environmental Plan 2011.
3. 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 Part C4 Stormwater of the Warringah Development Control Plan 2011.
4. 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 Part C6 Building Over or Adjacent to Constructed Council Drainage Easements of the Warringah Development Control Plan 2011.
5. 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 Part E10 Landslip Risk of the Warringah Development Control Plan 2011.

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

Signed



Nick England, Planner

The application is determined on 22/12/2020, under the delegated authority of:



Anna Williams, Manager Development Assessments