

21 December 2023



Boston Blyth Fleming Pty Ltd  
1 / 9 Narabang Way  
BELROSE NSW 2085

Dear Sir/Madam

**Application Number:** Mod2023/0545  
**Address:** Lot C DP 381427 , 189 Riverview Road, AVALON BEACH NSW 2107  
Lot LIC 567410 , 189 Riverview Road, AVALON BEACH NSW 2107  
**Proposed Development:** Modification of Development Consent DA2021/1522 granted for Demolition works and construction of a dwelling house.

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

You should thoroughly read the Notice of Determination and be aware of any conditions imposed that affect the development and guide the next steps in the process before you can commence works and/or the use.

A copy of the Assessment Report associated with this application is available to view in the Planning and Development > Application Search section of Council's website at [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au)

If you have any questions regarding the decision or the conditions, please contact Council to speak to the assessment officer or the undersigned on 1300 434 434 or via email quoting the Application number, property address and the description of works to [council@northernbeaches.nsw.gov.au](mailto:council@northernbeaches.nsw.gov.au)

Regards,



Anaiis Sarkissian  
**Planner**

## NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT

<b>Application Number:</b>	Mod2023/0545 PAN-376798
<b>Applicant:</b>	Boston Blyth Fleming Pty Ltd 1 / 9 Narabang Way BELROSE NSW 2085
<b>Property:</b>	Lot C DP 381427 189 Riverview Road AVALON BEACH NSW 2107 Lot LIC 567410 189 Riverview Road AVALON BEACH NSW 2107
<b>Description of Development:</b>	Modification of Development Consent DA2021/1522 granted for Demolition works and construction of a dwelling house.
<b>Determination:</b>	Approved Consent Authority: Northern Beaches Council
<b>Date of Determination:</b>	21/12/2023
<b>Date from which the consent operates:</b>	21/12/2023

Under Section 4.55 (1a) Minor Environmental Impact of the EP&A Act, notice is given that the above application to modify the original application has been approved, subject to the conditions specified in this notice and as described in the Modification Summary.

### Reasons for approval

The development proposal meets the Objects of the Environmental Planning and Assessment Act 1979, contained in Section 1.3, having considered the relevant provisions under s.4.15 of the aforementioned Act. Consequently, the development is considered to be in the public interest, subject to conditions.

### Community views

The application was notified in accordance with Council's Community Participation Plan and the Environmental Planning and Assessment Regulation 2021. Any submissions received representing community views were considered as part of the assessment of the application. Conditions of consent included within this Notice of Determination have been applied to ensure that the development satisfies the Objects of the Environmental Planning and Assessment Act and will not result in unacceptable environmental impacts.

## 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 28 days 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



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Name Anais Sarkissian, Planner

Date 21/12/2023

## Modification Summary

The development consent is modified as follows:

### MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN-376798 MOD2023/0545	The date of this notice of determination	Modification of Development Consent DA2021/1522 granted for demolition works and construction of a dwelling house  Modify Condition 1A - Modification of Consent - Approved Plans and Supporting Documentation Modify Condition 11 - Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans Add Condition 26A - Adherence to Natural Environment Consent Conditions Add Condition 56A - Amendments to the approved plans Add Condition 63 - No Approval for Secondary Dwelling

### Modified conditions

#### **A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting documentation, to read as follows:**

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
181	B	L01 Garage	Silvester Fuller Pty Ltd	20 December 2023
182	B	L00 Entrance	Silvester Fuller Pty Ltd	20 December 2023
183	B	L01 Mezzanine	Silvester Fuller Pty Ltd	20 December 2023
184	B	L02 Living	Silvester Fuller Pty Ltd	20 December 2023
185	B	L03 Sleeping	Silvester Fuller Pty Ltd	20 December 2023
186	B	L04 Gym	Silvester Fuller Pty Ltd	20 December 2023
187	B	L05 Guest	Silvester Fuller Pty Ltd	20 December 2023

188	B	Roof	Silvester Fuller Pty Ltd	20 December 2023
221	B	East and West Elevation	Silvester Fuller Pty Ltd	20 December 2023
222	B	North Elevation	Silvester Fuller Pty Ltd	20 December 2023
223	B	South Elevation	Silvester Fuller Pty Ltd	20 December 2023
322	B	Section A	Silvester Fuller Pty Ltd	20 December 2023
323	B	Section B	Silvester Fuller Pty Ltd	20 December 2023

<b>Approved Reports and Documentation</b>			
<b>Document Title</b>	<b>Version Number</b>	<b>Prepared By</b>	<b>Date of Document</b>
Overall Site Landscape Plan - L00	E	Durie Design	11 December 2023
Garage Level Landscape Plan - L01	E	Durie Design	11 December 2023
Entrance Level Landscape Plan - L02	E	Durie Design	11 December 2023
Mezzanine Level Landscape Plan - L03	E	Durie Design	11 December 2023
Living Level Landscape Plan - L04	E	Durie Design	11 December 2023
Sleeping Level Landscape Plan - L05	E	Durie Design	11 December 2023
Gym Level Landscape Plan - L06	E	Durie Design	11 December 2023
Roof Level Landscape Plan - L07	E	Durie Design	11 December 2023
Planting Schedule - L08	E	Durie Design	11 December 2023
Planting Details - L09	E	Durie Design	11 December 2023

BASIX Certificate	1227940S_03	Gradwell Consulting	26 September 2023
NatHERS Certificate	0008945586	Durie Design	26 September 2023
Geotechnical Letter	AG 20235.01	ASCENT Geotechnical Consulting	31 August 2023
Geotechnical Inspection Site Report	1 - 33589BNM	JK Geotechnics	20 October 2020
Geotechnical Assessment	2 - AG 20235	ASCENT Geotechnical Consulting	21 February 2022
Arborist Letter	-	Botanics Tree Wise People	20 October 2023
Flora and Fauna Impact Assessment	-	ACS Environmental	17 October 2023

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

**B. Modify Condition 11 - Geotechnical Report Recommendations have been Incorporated into Designs and Structural Plans, to read as follows:**

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report prepared by JK Geotechnics dated 20 October 2020 and ASCENT Geotechnical Engineering dated 21 February 2022 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.

**C. Add Condition 26A - Adherence to Natural Environment Consent Conditions, to read as follows:**

All biodiversity-related conditions of consent under previous development applications are to be adhered to, including DA2021/1522, unless amended by these biodiversity-related conditions of consent.

Reason: To protect biodiversity values.

**D. Add Condition 56A - Amendments to the approved plans, to read as follows:**

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

Install 1800mm high privacy screens to the following parts of the development:

- The northern and southern edges of the pool and terrace on Level 02
- The northern and southern edges of the terrace on Level 03

The screens are to be designed, and materials and colours used, to complement the character and design of the building.

Additionally, the front fence as show on the plans is not approved under this modification.

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

Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

**E. Add Condition 63 - No Approval for Secondary Dwelling, to read as follows:**

No approval is granted or implied under this Development Consent for the use of any part of the dwelling house for the purpose of a secondary dwelling or separate occupancy. Built-in cooking facilities are not permitted to be installed, other than those shown in the designated kitchen area.

Reason: To ensure compliance with the terms of this consent.

## Important Information

This letter should therefore be read in conjunction with DA2021/1522 dated 25 March 2022.

## Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

**Approved plans and documents** means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

**AS** means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

**Building work** means any physical activity involved in the erection of a building.

**Certifier** means a council or a person that is registered to carry out certification work under the Building and Development Certifiers Act 2018.

**Construction certificate** means a certificate to the effect that building work completed in accordance

with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

**Council** means Northern Beaches Council.

**Court** means the Land and Environment Court of NSW.

**EPA** means the NSW Environment Protection Authority.

**EP&A Act** means the Environmental Planning and Assessment Act 1979.

**EP&A Regulation** means the Environmental Planning and Assessment Regulation 2021.

**Independent Planning Commission** means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

**Local planning panel** means Northern Beaches Local Planning Panel.

**Occupation certificate** means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

**Principal certifier** means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

**Site work** means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

**Stormwater drainage system** means all works and facilities relating to: the collection of stormwater, the reuse of stormwater, the detention of stormwater, the controlled release of stormwater, and connections to easements and public stormwater systems.

**Strata certificate** means a certificate in the approved form issued under Part 4 of the Strata Schemes Development Act 2015 that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

**Subdivision certificate** means a certificate that authorises the registration of a plan of subdivision under Part 23 of the Conveyancing Act 1919.

**Subdivision works certificate** means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A Regulation.

**Sydney district or regional planning panel** means Sydney North Planning Panel.