

19 February 2024



Allen De Carteret  
15 Foster Street  
SURRY HILLS NSW 2010

Dear Sir/Madam

**Application Number:** Mod2023/0535  
**Address:** Lot 221 DP 15376 , 266 Whale Beach Road, WHALE BEACH NSW 2107  
**Proposed Development:** Modification of Development Consent DA2021/0419 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,



Kye Miles  
Planner

## NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT

|  |   |
|--|---|
| <b>Application Number:</b>                   | Mod2023/0535<br>PAN-375449  |
| <b>Applicant:</b>                            | Allen De Carteret<br>15 Foster Street<br>SURRY HILLS NSW 2010   |
| <b>Property:</b>                             | Lot 221 DP 15376<br>266 Whale Beach Road WHALE BEACH NSW 2107   |
| <b>Description of Development:</b>           | Modification of Development Consent DA2021/0419 granted for Demolition works and construction of a dwelling house |
| <b>Determination:</b>                        | Approved<br>Consent Authority: Northern Beaches Council   |
| <b>Date of Determination:</b>                | 16/02/2024  |
| <b>Date from which the consent operates:</b> | 16/02/2024  |

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



Name                      Kye Miles, Planner

Date                      16/02/2024

## Modification Summary

The development consent is modified as follows:

### MODIFICATION SUMMARY TABLE

| Application Number        | Determination Date                       | Modification description   |
|---------------------------|--|--|
| PAN-375449 - Mod2023/0535 | The date of this notice of determination | <p>Modification of Development Consent DA2021/0419 granted for Demolition works and construction of a dwelling house</p> <ul style="list-style-type: none"> <li>Add Condition No.1A - Modification of Consent - Approved Plans and supporting documentation</li> <li>Add Condition No.5A - No approval to works associated with the Building Information Certificate (BIC)</li> <li>Add Condition No.18A - No Clearing of Vegetation</li> </ul> <p>Insert amended conditions</p> <ul style="list-style-type: none"> <li>Add Condition No.30A - Wildlife Protection</li> <li>Add Condition No.30B - Protection of Habitat Features</li> </ul> |

### 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      |
| S4.55 - 004    | 01              | Site Plan   | Studio_deCARTA | 19 September 2023 |
| 11.6.1         | -               | Basement    | Studio_deCARTA | 13 September 2023 |
| 11.6.2         | -               | First Floor | Studio_deCARTA | 13 September 2023 |
| 11.6.3         | -               | Level 2     | Studio_deCARTA | 13 September 2023 |
| S4.55 - 103    | 01              | Mezzanine   | Studio_deCARTA | 19 September 2023 |
| S4.55 - 104    | 01              | Roof Plan   | Studio_deCARTA | 19 September 2023 |

|             |    |                 |                |                   |
|-------------|----|-----------------|----------------|-------------------|
| S4.55 - 300 | 01 | West Elevation  | Studio_deCARTA | 19 September 2023 |
| S4.55 - 301 | 01 | South Elevation | Studio_deCARTA | 19 September 2023 |
| S4.55 - 303 | 01 | North Elevation | Studio_deCARTA | 19 September 2023 |
| S4.55 - 304 | 01 | East Elevation  | Studio_deCARTA | 19 September 2023 |

| Approved Reports and Documentation |                |                          |                  |
|------------------------------------|----------------|--------------------------|------------------|
| Document Title                     | Version Number | Prepared By              | Date of Document |
| BASIX Certificate                  | 1168288S_05    | Efficient Living Pty Ltd | 13 February 2024 |

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. Add Condition No.5A - No approval to works associated with the Building Information Certificate (BIC), to read as follows:**

No approval is granted under this Development Consent for the unauthorised work, including, the extension to the basement slab and associated earthworks, as covered within BC2023/0287.

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

**C. Add Condition No.18A - No Clearing of Vegetation, to read as follows:**

Unless otherwise exempt, no vegetation is to be cleared prior to issue of a Construction Certificate.

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

Reason: To protect native vegetation.

**D. Add Condition No.30A - Wildlife Protection, to read as follows:**

If construction activity associated with this development results in injury or displacement of a native mammal, bird, reptile or amphibian, a licensed wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

**E. Add Condition No.30B - Protection of Habitat Features, to read as follows:**

All natural landscape features, including any rock outcrops, native vegetation and/or watercourses, are to remain undisturbed during the construction works, except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

## **Important Information**

This letter should therefore be read in conjunction with DA2021/0419 dated 11 August 2021

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## **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.