

20 August 2021



Hamptons By Rose Pty Ltd
Atf The Northern Beaches Trust 51 Riley Street
WOOLLOOMOOLOO NSW 2011

Dear Sir/Madam

Application Number: Mod2021/0041
Address: Lot 11 DP 577062 , 23 Fisher Road, DEE WHY NSW 2099
Proposed Development: Modification of Development Consent DA2018/1574 granted for construction of a mixed development comprising three residential flat buildings, commercial use of a heritage listed building, car parking, infrastructure and landscaping

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

Please be advised that a copy of the Assessment Report associated with the application is available on Council's website at www.northernbeaches.nsw.gov.au

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

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

Regards,



Peter Robinson
Executive Manager Development Assessment

NOTICE OF DETERMINATION

Application Number:	Mod2021/0041
Determination Type:	Development Application

APPLICATION DETAILS

Applicant:	Hamptons By Rose Pty Ltd
Land to be developed (Address):	Lot 11 DP 577062 , 23 Fisher Road DEE WHY NSW 2099
Proposed Development:	Modification of Development Consent DA2018/1574 granted for construction of a mixed development comprising three residential flat buildings, commercial use of a heritage listed building, car parking, infrastructure and landscaping

DETERMINATION - REFUSED

Made on (Date)	18/08/2021
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Reasons for Refusal:

1. The proposal does not satisfy the requirements of section 4.55 (2) (a) of the Environmental Planning and Assessment Act 1979, as the development the subject of the application is not substantially the same development as the development for which consent was originally granted
2. The proposed development does not satisfy section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, as it is contrary to the following environmental planning instruments:
 - (a) *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65)* as the development fails to satisfy the following design quality principles specified by Schedule 1 of SEPP 65:
 - (i) *Principle 1 – Context and neighbourhood* in that the proposed development does not achieve the desired urban form and built form quality envisaged for the area.
 - (ii) *Principle 2 - Built form and scale* as the proposed development is out of scale with the desired future character for the area. The scale, bulk and height of the proposed development exceed that envisaged for the site.
 - (iii) *Principle 5: Landscape* as the additional excavation and extension of basement parking results in further disturbance to natural features of the site and additional tree removal and increases the above slab planting areas
 - (b) Warringah Local Environmental Plan (WLEP) 2011 as the development fails the following provisions:

(i) Clause 4.3(1) and (2) as the proposal will further exceed the maximum building height which will result in unreasonable amenity impacts and be incompatible with the character of the locality.

(ii) Clause 5.10 in the proposal has not provided sufficient information to demonstrate compliance with the requirement of this Clause (i.e. an amended Heritage Impact Statement has not been provided to address the additional building height).

(iii) Clause 7.5 as the proposal does not exhibit design excellence in that it results in unreasonable amenity impacts upon surrounding sites, provides unacceptable bulk and results in environmental impacts.

3. The proposal does not satisfy section 4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979, as the proposed development is contrary to Warringah Development Control Plan 2011, in respect to the following provisions:
 - (i) Clause 1.2 Aims of The Plan
 - (ii) Clause D7 Views
 - (iii) Clause D9 Building Bulk
 - (iv) Part G1 Dee Why Town Centre – Clauses 3, 5 and 11
4. Insufficient information has been provided with application for Council to accurately calculate the applicable Contributions in accordance with Northern Beaches Section 7.12 Contributions Plan 2019
5. The proposal is not considered to be in the public interest for the reasons outlined above contrary to Section 4.15 (1)(e) of the Environmental Planning and Assessment Act, 1979

Right of Appeal

If you are dissatisfied with this decision Division 8.3 of the Environmental Planning & Assessment Act 1979 may give you the right to appeal to the Land and Environment Court within 6 months after the date on which you receive this notice.

Signed On behalf of the Consent Authority



Name Peter Robinson
 Executive Manager Development Assessment

Date 18/08/2021

NOTE: Signed by Northern Beaches Council in accordance with the Environmental Planning and Assessment Act 1979 and EP&A Regulation 2000 as determined by the Sydney North Planning Panel on 18/08/2021.