

20 May 2023



Allen Group Developments Pty Ltd  
C/- Greg Boston 1/9 Narabang Way  
BELROSE NSW 2085

Dear Sir/Madam

**Application Number:** DA2022/0688  
**Address:** Lot 8 DP 3742 , 35 Fairlight Street, FAIRLIGHT NSW 2094  
Lot 9 DP 3742 , 33 Fairlight Street, FAIRLIGHT NSW 2094  
**Proposed Development:** Demolition works and construction of a residential flat building

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](http://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](mailto:council@northernbeaches.nsw.gov.au)

Regards,



Rodney Piggott  
**Manager Development Assessments**

## NOTICE OF DETERMINATION

<b>Application Number:</b>	DA2022/0688
<b>Determination Type:</b>	Development Application

### APPLICATION DETAILS

<b>Applicant:</b>	Allen Group Developments Pty Ltd
<b>Land to be developed (Address):</b>	Lot 8 DP 3742 , 35 Fairlight Street FAIRLIGHT NSW 2094 Lot 9 DP 3742 , 33 Fairlight Street FAIRLIGHT NSW 2094
<b>Proposed Development:</b>	Demolition works and construction of a residential flat building

### DETERMINATION - REFUSED

<b>Made on (Date)</b>	17/05/2023
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### Reasons for Refusal:

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.

Specifically, the development is not in the public interest having regard to the matters set out in the submissions to the extent that the concerns raised are consistent with Council's assessment.

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 State Environmental Planning Policy 65 - Design Quality of Residential Flat Development.

Specifically, the proposal is inconsistent with the Design Quality Principles set out in SEPP 65 and is inconsistent with various provisions of the Apartment Design Guide.

3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Manly Local Environmental Plan 2013.

4. 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 4.6 Exceptions to Development Standards of the Manly Local Environmental Plan 2013.

Specifically, the proposal is inconsistent with the underlying objectives of MLEP Clause 4.3 Height of Buildings and Clause 4.4 Floor Space Ratio. Further, the applicant's written request under Clause 4.6 of MLEP has not adequately demonstrated that compliance with the standards is unreasonable or unnecessary, that there are sufficient environmental planning grounds to justify the contraventions or that the proposed development will be in the public interest.

5. 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 6.2 Earthworks of the Manly Local Environmental Plan 2013.

Specifically, the proposed volume and depth of excavation to accommodate the proposed building are excessive and do not respond to the topography of the site. The proposal is contrary to the provisions of MLEP Clause 6.2 and MDCP Clause 4.4.5.

6. 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 Stormwater Management of the Manly Local Environmental Plan 2013.

Specifically, the proposed stormwater design does not comply with Council's Water Management for Development Policy, contrary to MLEP Clause 6.4 and MDCP Clause 3.7.

7. 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 Clause 3.4.1 Sunlight Access and Overshadowing of the Manly Development Control Plan.

Specifically, the application includes insufficient information to demonstrate that the proposal complies with the provisions of MDCP Clause 3.4.1 and that there will be no unacceptable loss of solar access to adjoining properties.

8. 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 Clause 3.4.2 Privacy and Security of the Manly Development Control Plan.

Specifically, the proposal results in unacceptable privacy impacts to adjoining properties with regard to MDCP Clause 3.4.1 and ADG Objective 3F.

9. 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 Clause 4.1.6 Parking, Vehicular Access and Loading (Including Bicycle Facilities) of the Manly Development Control Plan.

Specifically, the proposal is inconsistent with the provisions of MDCP Clause 4.1.6 and provides insufficient information to demonstrate that acceptable access to the site is achieved.

## Right to Review by the Council

You may request Council to review this determination of the application under Division 8.2 of the Environmental Planning & Assessment Act 1979. Any Division 8.2 Review of Determination application must be lodged on the NSW Planning portal within 3 months of this determination, to enable the assessment and determination of the application within the 6 month timeframe.

*NOTE: A fee will apply for any request to review the determination.*

## 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



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Name                Rodney Piggott, Manager Development Assessments

Date                 17/05/2023