

19 December 2023



Belrose Rb1 Pty Ltd
91 Fitzroy Street
SURRY HILLS NSW 2010

Dear Sir/Madam

Application Number: DA2022/1530
Address: Lot 9 DP 737255 , 171 Forest Way, BELROSE NSW 2085
Proposed Development: Demolition works and construction of housing for seniors or people with a disability

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

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

Regards,



Steven Findlay
Manager Development Assessments

NOTICE OF DETERMINATION

Application Number:	DA2022/1530
Determination Type:	Development Application

APPLICATION DETAILS

Applicant:	Belrose Rb1 Pty Ltd
Land to be developed (Address):	Lot 9 DP 737255 , 171 Forest Way BELROSE NSW 2085
Proposed Development:	Demolition works and construction of housing for seniors or people with a disability

DETERMINATION - REFUSED

Made on (Date)	13/12/2023
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Reasons for Refusal:

1. Pursuant to Section 4.47(4) of the Environmental Planning and Assessment Act 1979, the consent authority cannot grant consent to the application as the required approval from the NSW Rural Fire Service under Section 100B of the Rural Fires Act 1997 has not been issued.
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 (Resilience and Hazards) 2021 and Clause 48 and 49 of the WLEP 2000. Specifically, Council cannot be satisfied the site is suitable for the proposed development as insufficient information has been submitted to demonstrate that the land will be suitable in its current state (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out. The Phase 1 contamination assessment identified areas of concern within the site and a Phase 2 contamination assessment has not been provided to deal with these areas.
3. Pursuant to Section 4.15(1) (a) (i) and (b) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Clause 12 of the Warringah Local Environmental Plan 2000, in that the proposal is inconsistent with the Desired Future Character (DFC) Statement of the B2 Oxford Falls Valley Locality. In particular, the proposal does not satisfy DFC requirements for a "Category 2" development to conform with:
 - i. Low intensity and low impact characteristics, including impact to vegetation and water management.
 - ii. Detached style appearance for housing, including the excessive height of the proposal.
 - iii. Enhancing the natural landscape.
 - iv. Minimising disturbance of vegetation and landforms.
 - v. Not creating siltation or pollution of Narrabeen Lagoon and its catchment.
 - vi. Ensuring ecological values of natural watercourses are maintained.
4. Pursuant to Section 4.15(1)(a) of the Environmental Planning and Assessment Act 1979, the

proposed development is inconsistent with the provisions of Warringah Local Environmental Plan 2000 in that the proposed development is does not comply with the 8.5m Building Height Built Form Control, 10m Side Boundary Setback Built Form Control and 8.0m Ground to Ceiling Height control under Clause 29(2)(a). The proposal is of excessive height, bulk and scale and has not adequately responded to the site topography.

5. Pursuant to Section 4.15(1)(a) of the Environmental Planning and Assessment Act, 1979, and Clause 12(1)(a) of Warringah Local Environment Plan 2000 (as amended), the development is inconsistent with the following General Principles of Development Control as follows:

- Clause 48 – Contaminated Land
- Clause 56 - Retaining Unique Environmental Features
- Clause 57 – Development on Sloping Land
- Clause 58 - Protection of Existing Flora
- Clause 60 - Watercourses & Aquatic Habitats
- Clause 63 - Landscaped open space
- Clause 66 - Building Bulk
- Clause 70 – Site facilities
- Clause 72 – Traffic Access and Safety
- Clause 76 - Management of Stormwater

6. Pursuant to Section 4.15(1)(a) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Warringah Local Environmental Plan 2000 in that the proposed development is not consistent with:

i. Schedule 16 - Principles and Standards for Housing for Older People or People with Disabilities, specifically Control 21 'Neighbourhood amenity and streetscape'.

7. 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 StateEnvironmental Planning Policy 65 - Design Quality of Residential Apartment Development. Specifically, the privacy interface between Unit 14 and Unit 16, as well as between Unit 13 and Unit 15, is not resolved in accordance with the design guidelines. The development is inconsistent with the design criteria of the Apartment Design Guidelines with regards to Objective 2F Building Separation and 3F Visual Privacy.

8. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act, 1979, the proposed development is not in the public interest as the development is inconsistent with the scale and intensity of development that the community can reasonably expect to be provided on this site and within the respective localities.

9. Pursuant to Section 4.15(1)(b) the Environmental Planning and Assessment Act, 1979, the proposal fails to minimise the impact of the development on the biodiversity values of the site due to the extent of vegetation impacted by the proposal.

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 6 months 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

Steven Findlay, Manager Development Assessments

Date

13/12/2023