

7 November 2024



Sean Clive Gartner
C/- Sean Gartner Po Box 1122
MONA VALE NSW 1660

Dear Sir/Madam

Application Number: DA2024/0303
Address: Lot 5 DP 222134 , 337 Lower Plateau Road, BILGOLA PLATEAU NSW 2107
Proposed Development: Demolition of existing structures, removal of trees and subdivision of one lot into three lots.

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,



Adam Richardson
Manager Development Assessments

NOTICE OF DETERMINATION

Application Number:	DA2024/0303
Determination Type:	Development Application

APPLICATION DETAILS

Applicant:	Sean Clive Gartner
Land to be developed (Address):	Lot 5 DP 222134 , 337 Lower Plateau Road BILGOLA PLATEAU NSW 2107
Proposed Development:	Demolition of existing structures, removal of trees and subdivision of one lot into three lots.

DETERMINATION - REFUSED

Made on (Date)	06/11/2024
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Reasons for Refusal:

- Pursuant to Section 4.15(1)(c) of the of the Environmental Planning and Assessment Act 1979, the application has not been accompanied by the required information for a Development Application.

Particulars:

- The application has not been accompanied by Land Owners Consent from No.339 Lower Plateau Road.
 - The development application proposes to use a traffic signal system to address issues with the steep gradient and sight lines on the driveway ramp. The amended proposal increases the length of the passing bay which in turn relocates a traffic light outside the site boundary into No. 339 Lower Plateau Road.
 - As such, the development application does not contain all the information and documents required by Clause 24(1)(b) of the Environmental Planning and Assessment Regulation 2021 and the development application has not been made with the consent of the owners of No.339 Lower Plateau Road, as required by Clause 23(1)(b) Environmental Planning and Assessment Regulation 2021.
- Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the matter for consideration prescribed by subclause 8 of Clause 5.10 of the Pittwater Local Environmental Plan 2014.

Particulars:

- The site to which the application relates is a bushland block with a natural watercourse. Such sites are known to be favorable to Aboriginal occupation and therefore, the likelihood of

Aboriginal relics.

ii. Subclause 8 of Clause 5.10 of the Pittwater Local Environmental Plan requires the consent authority to consider the effect of the development of a known Aboriginal object or the reasonable likelihood of an object by means of investigation.

iii. No Aboriginal due diligence report has been provided to Council. As such there is no information to consider the effect of the development as required by subclause 8 of Clause 5.10 of the Pittwater Local Environmental Plan 2014.

3. Pursuant to Section 4.15(1)(d)(iv) of the the Environmental Planning and Assessment Act 1979, the site is considered unsuitable for the proposed development due to insufficient information been submitted to satisfy Council that essential services, including safe access and stormwater and drainage, can be provided and that there will be no impact on Aboriginal heritage. The proposal is therefore inconsistent with the provisions of Clause 4.1 (e) Minimum subdivision lot sizes, Clause 5.10 (8) (a) and (b) Heritage Conservation, Clause 7.2 (f) and (i) Earthworks, Clause 7.7(a) Geotechnical hazards, Clause 7.10 (d) and (e) Essential Services of the Pittwater LEP and the provisions of A4.3 Bilgola Locality, Clause B1.4 Aboriginal Heritage Significance, Clause B2.2 Subdivision - Low Density Residential Areas, Clause 5.15 Stormwater, Clause B6.1 Access driveways and Works on the Public Road Reserve, Clause B6.2 Internal driveways, Clause B6.7 Transport and Traffic Management, Clause C4.2 Subdivision - Access Driveways and Off-Street Parking Facilities, Clause C4.6 Service and delivery vehicle access of the Pittwater 21 Development Control Plan 2014.

Particulars:

- i. Insufficient information has been submitted to satisfy Council that a safe and adequate vehicular access to and from the site can be provided that will not endanger persons using the driveway and the adjoining roads, including pedestrians and emergency vehicles. Specifically, insufficient information has been submitted to address issues with sightlines at the site boundary and the driveway gradient. In addition, the traffic light signal system cannot be relied upon as a solution to addressing issues with the long, narrow and steep driveway as owners consent has not be provided for the location of the traffic lights at No. 339 Lower Plateau Road.
- ii. A preliminary investigation ('due diligence' under the National Parks and Wildlife Act 1974) by a qualified Aboriginal heritage professional has not been submitted, as such it has not been possible to consider the effects of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment.
- iii. Insufficient information has been submitted to satisfy Council that the development will appropriately manage stormwater and drainage across the land so as not to affect the rate, volume and quality of water leaving the land.

4. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.

Particulars:

- i. Insufficient information to satisfy Council that safe access and adequate stormwater and drainage can be provided.
- ii. Insufficient information to satisfy Council that there will be no impacts on Aboriginal heritage.

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 lodged to and determined by the consent authority within 6 months from the date that the original determination was registered on the NSW Planning Portal. Prospective applicants for a Review of Determination are encouraged to lodge a review application with Council as soon as possible, to enable a full review and determination.

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 Adam Richardson, Manager Development Assessments

Date 06/11/2024