

26 September 2023



The Trustee For The 1955 Pr Bay Unit Trust
1 / 9 Narabang Way
BELROSE NSW 2085

Dear Sir/Madam

Application Number: Mod2022/0471
Address: Lot 1 DP 373531 , 1955 Pittwater Road, BAYVIEW NSW 2104
Proposed Development: Modification of Development Consent DA2019/0154 granted for demolition works and construction of a seniors housing development

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,



Steven Findlay
Manager Development Assessments

NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT

Application Number:	Mod2022/0471 PAN-254758
Applicant:	The Trustee For The 1955 Pr Bay Unit Trust 1 / 9 Narabang Way BELROSE NSW 2085
Property:	Lot 1 DP 373531 1955 Pittwater Road BAYVIEW NSW 2104
Description of Development:	Modification of Development Consent DA2019/0154 granted for demolition works and construction of a seniors housing development
Determination:	Approved Consent Authority: Northern Beaches Council
Date of Determination:	13/09/2023
Date from which the consent operates:	13/09/2023

Under Section 4.56 Court Consent 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 Steven Findlay, Manager Development Assessments

Date 13/09/2023

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN-254758 MOD2022/0471	The date of this notice of determination	<p>Modification of Development Consent DA2019/0154 granted for demolition works and construction of a seniors housing development.</p> <ul style="list-style-type: none"> • Add Condition No.1C (Modification of Consent - Approved Plans and supporting Documentation) • Add Condition 28A (Access and Facilities for Persons with Disabilities) • Add Condition 28B (Submission Roads Act Application for Civil Works in the Public Road (Retaining Wall Works)) • Add Condition 28C (Amendments to the approved plans) • Add Condition 28D (Services and Fire Hydrant Enclosure) • Add Condition 51A (Impacts to Protected Native Wildlife) • Add Condition 51B (Wildlife Protection) • Add Condition 57A (No Weeds Imported On To The Site) • Add Condition 57B (Priority Weed Removal and Management) • Add Condition 71 (Replacement of Canopy Trees) • Add Condition 72 (Plant Noise) • Add Condition 73 (Use of the Roof Terrace) • Add Condition 74 (Use of "Lower Ground Floor storage areas") • Add Condition 75 (Roof top screening & AC Units) • Modify Condition 2 (Compliance with Other Department, Authority or Service Requirements) • Modify Condition 46 (Removal of trees within the road reserve) • Modify Condition 49 (Tree and vegetation protection) • Modify Condition 56 (Landscape Works) • Modify Condition 57 (Condition of Retained Vegetation)
PAN-106400 MOD2021/0343	27/07/2021	Modify development consent DA2019/0154 granted for demolition works and construction of a seniors housing development to use the basement void area approved under Mod2021/0101 as storage areas for each dwelling

		<ul style="list-style-type: none"> Add Condition No.1B (Modification of Consent - Approved Plans and supporting Documentation)
PAN-78870 MOD2021/0101	12/05/2021	<p>Modify development consent DA2019/0154 granted for demolition works and construction of a seniors housing development to amend the location and method of piling and shoring and the reinforced concrete block work retaining walls associated with the excavated carpark levels.</p> <ul style="list-style-type: none"> Add Condition No.1A (Modification of Consent - Approved Plans and supporting Documentation)

Modified conditions

A. Add Condition No.1C - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA.101 Rev. F - Site Plan	29/03/2023	A+ Design Group
DA.201 Rev.E - Entry Floor Plan	29/03/2023	A+ Design Group
DA.202 Rev.E - Carpark Floor Plan	29/03/2023	A+ Design Group
DA.203 Rev.F - Lower Ground Floor Plan	04/05/2023	A+ Design Group
DA.204 Rev.C - Ground Floor Plan	28/01/2023	A+ Design Group
DA.205 Rev.C - First Floor Plan	28/01/2023	A+ Design Group
DA.301 Rev.E - Section AA	08/03/2023	A+ Design Group
DA.302 Rev.E - Section BB	08/03/2023	A+ Design Group
DA.303 Rev.A - Section CC	21/06/2023	A+ Design Group
DA.401 Rev.D - North Elevation	29/03/2023	A+ Design Group
DA.402 Rev.F - West Elevation	14/07/2023	A+ Design Group
DA.403 Rev.D - South Elevation	28/01/2023	A+ Design Group
DA.404 Rev.F - East Elevation	14/07/2023	A+ Design Group
DA.803 - Schedule of Materials & Finishes	28/01/2023	A+ Design Group

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate (99121M_04)	11/08/2022	Efficient Living
NatHERS Certificate (0005395090)	11/08/2022	Efficient Living
Disability Access Report Rev.4 (P000737)	10/02/2023	Inclusive Places

Geotechnical Report (SRE/1020/BV/22)	16/09/2022	Soilsrock Engineering Pty Ltd
Geotechnical Report (SRE/1020/BV/23)	20/04/2023	Soilsrock Engineering Pty Ltd
Arborist Report	01/08/2022	Waratah Eco Works

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	Dated	Prepared By
000 Issue.E - Landscape Coversheet	02/03/2023	Site Image Landscape Architects
001 Issue.D - Landscape Area Plan	03/03/2023	Site Image Landscape Architects
101 Issue.D - Landscape Plan - Ground Floor	02/03/2023	Site Image Landscape Architects
201 Issue.D - Landscape Plan - First Floor	02/03/2023	Site Image Landscape Architects
501 Issue.A - Landscape Details	03/08/2022	Site Image Landscape Architects
601 Issue.C - Landscape Sections	02/03/2023	Site Image Landscape Architects
901 Issue.B - Tree Retention Plan	10/02/2023	Site Image Landscape Architects

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

B. Modify Condition 2 (Compliance with Other Department, Authority or Service Requirements) to read as follows:

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
New South Wales Roads & Maritime Services	Response NSW RMS Referral	18 October 2019
Ausgrid	Ausgrid Referral Response	05 October 2022

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

C. Modify Condition 46 (Removal of trees within the road reserve) to read as follows:

This consent includes approval to remove the following numbered existing species located within the road reserve:

- 3 - *Corymbia maculata* (identified as tree 1 in the Arboricultural Impact Assessment prepared by Waratah Eco Works August 2022),
- 4 - *Ficus rubiginosa*, subject to replacement within the road reserve,
- 5 - Cocus Palm,
- 6 - *Buckinghamiana celsissima*.

Removal of approval trees in the road reserve shall be undertaken only by a Council approved tree contractor. Details of currently approved tree contractors can be obtained from Northern Beaches Council's Tree Services section.

Reason: public safety.

D. Modify Condition 49 (Tree and vegetation protection) to read as follows:

- a) Existing trees and vegetation shall be retained and protected in accordance with AS4970-2009 Protection of Trees on Development Sites, including:
 - i) all trees and vegetation located on adjoining properties, and
 - ii) all road reserve trees and vegetation not approved for removal, being existing trees 1 and 2.
- b) Tree protection shall be generally undertaken as follows:
 - i) all tree protection shall be in accordance with AS4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,
 - ii) existing ground levels shall remain under the tree protection zone of trees to be retained, unless authorised by AQF Level 5 Arborist,
 - iii) removal of existing tree roots greater than 25mm is not permitted without consultation with a AQF Level 5 Arborist,
 - iv) any tree roots exposed during excavation with a diameter greater than 25mm within the tree protection zone must be assessed by an AQF Level 5 Arborist. Details including photographic evidence of works undertaken shall be submitted to the Certifying Authority,
 - v) to minimise the impact on trees and vegetation to be retained and protected, no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
 - vi) no tree roots greater than 25mm diameter are to be cut from protected trees unless authorised by a AQF Level 5 Project Arborist on site,
 - vii) all structures are to bridge tree roots greater than 25mm diameter unless directed by a AQF Level 5 Arborist on site,
 - viii) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with a AQF Level 5 Arborist, including advice on root protection measures,
 - ix) should either or all of vi), vii) and viii) occur during site establishment and constructionworks, a AQF Level 5 Arborist shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,
 - x) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works, is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009, xi) tree pruning to enable construction shall not exceed 10% of any tree canopy, and shall be in accordance with AS4373-2009 Pruning of Amenity Trees.

c) All protected trees are to be retained for the life of the development, or for their safe natural life. Trees that die or are removed by approval must be replaced with a locally native canopy tree.

Reason: to retain and protect significant planting on development and adjoining sites.

E. Modify Condition 56 (Landscape Works) to read as follows:

Landscape works are to be implemented in accordance with the approved Landscape Plan(s) (drawings 000, 101, 201 by Site Image dated 02/03/23), and inclusive of the following conditions:

- 1) Each tree shall be installed at minimum 75 litre container size, and shall be planted at least 3 metres from buildings or more, and at least 1.5 metres from common boundaries,
- 2) Tree planting shall be located in consideration of neighbouring solar access to living internal and external living spaces and any significant views.

Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the approved plan and inclusive of any conditions of consent.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity and soften the built form.

F. Modify Condition 57 (Condition of Retained Vegetation) to read as follows:

Prior to the issue of an Occupation Certificate, a report prepared by an Arborist with AQZ Level 5 qualifications in arboriculture/horticulture shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained in proximity to development works, being existing trees 1, 2 and 25, including the following information:

- i) compliance to any Arborist recommendations for tree protection and excavation works.
- ii) extent of damage sustained by vegetation as a result of the construction works.
- iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: to retain and protect significant planting on development sites.

G. Add Condition 28A (Access and Facilities for Persons with Disabilities) to read as follows:

Access and facilities to and within the building are to be provided as required for Persons with a Disability in accordance with the Building Code of Australia and AS1428. In this regard the recommendations contained in the Disability Access Report prepared by Inclusive Places , Reference No. P000737, dated 10/02/2023 are to be taken into consideration as part of the assessment of the Construction Certificate. Details are to be provided to the Certifying Authority prior to the issue of the Construction Certificate and be implemented prior to occupation of the building.

Reason: To ensure adequate provision is made for access to and within the building for Persons with a disability.

H. Add Condition 28B (Submission Roads Act Application for Civil Works in the Public Road (Retaining Wall Works)) to read as follows:

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of

the Roads Act 1993.

The application is to include four (4) copies of Civil Engineering plans for the design of the retaining wall and turf area required for the proposed fire hydrant access for the building which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer. The design must include the following information:

1. Set-out plan with dimensions and proposed retaining wall height.
2. Structural plans for the retaining wall.
3. Geotechnical certification for the proposed design.
4. Landscaping plan for turf and associated landscaping works behind the retaining wall within the road reserve.
5. Services plan and concurrence from the relevant service authority for any services affected by the proposed works. All costs associated with the relocation of any services are to be borne by the applicant.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Certifier prior to the issue of the Construction Certificate

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

I. Add Condition 28C (Amendments to the approved plans) to read as follows:

The following amendments are to be made to the approved plans:

- a) The proposed "ground floor " eastern facing window to the "Unit 3 ensuite" shall be fitted with obscured glazing
- b) The proposed "first floor "eastern facing window to the "Unit 4 ensuite" shall be fitted with obscured glazing
- c) The proposed "ground floor " western facing window to the "Unit 2 ensuite" shall be fitted with obscured glazing
- d) A privacy screen with a minimum height of 1.5 metres (measured from finished floor level) is to be erected for the entire length of the outermost north-western edge (of the trafficable section) of the "Unit 4 Roof Deck". The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that complement the design of the approved development.
- e) The proposed front fence as shown on the approved plans shall not exceed 1 metre in height from existing ground level and shall be designed to step with the fall of the land. This fence shall be designed to be minimum of 50% open/transparent and constructed of dark-coloured, non-reflective materials.
- f) The proposed side and rear boundary fencing shall not exceed 1.8m in height from existing ground levels and shall be designed to step with the fall of the land. This fencing shall be located wholly within the boundaries of the subject site and shall be constructed of dark-coloured, non-reflective materials.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the

Construction Certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

J. Add Condition 51A (Impacts to Protected Native Wildlife) to read as follows:

Habitat for native wildlife including Tree 1 (*Corymbia maculata*) is to be inspected for native wildlife prior to removal. If native wildlife is found within habitat to be removed, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Any incidents in which native wildlife are injured or killed as a result of works are to be recorded, in addition to details of any action taken in response.

Written evidence of compliance (including records of inspections and any wildlife incidents) is to be provided to the Principal Certifier.

Reason: To protect native wildlife.

K. Add Condition 51B (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 registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

Habitat for native wildlife including Tree 1 (*Corymbia maculata*) is to be inspected for native wildlife prior to removal. If native wildlife is found within habitat to be removed, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Any incidents in which native wildlife are injured or killed as a result of works are to be recorded, in addition to details of any action taken in response.

Written evidence of compliance (including records of inspections and any wildlife incidents) is to be provided to the Principal Certifier.

Reason: To protect native wildlife.

L. Add Condition 57A (No Weeds Imported On To The Site) to read as follows:

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan) are to be imported on to the site prior to or during construction works.

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

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

M. Add Condition 57B (Priority Weed Removal and Management) to read as follows:

All Priority weeds as specified in the Northern Beaches Local Weed Management Plan) within the development footprint are to be removed.

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

Reason: To reduce the risk of site works contributing to spread of Priority weeds.

N. Add Condition 71 (Replacement of Canopy Trees) to read as follows:

Tree replacement plantings required under this consent are to be retained for the life of the development and/or for their safe natural life.

Trees that die or are removed must be replaced with another locally native canopy tree.

Reason: To replace locally native trees.

O. Add Condition 72 (Plant Noise) to read as follows:

Any plant equipment associated with the development, including the passenger lift and air conditioning unit, must be installed and operated at times so as not to cause 'offensive noise'. It must be demonstrated that the noise level will not exceed 5dBA above background noise when measured from the nearest property boundary, as defined by the Protection of the Environments Operation Act 1997.

Reason: To ensure compliance with legislation and to protect the acoustic amenity of neighbouring properties.

P. Add Condition 73 (Use of the Roof Terrace) to read as follows:

No permanent shade structures are to be erected on the roof top terrace without the prior approval of Council.

Reason: To minimise impact on private views toward Pittwater

Q. Add Condition 74 (Use of "Lower Ground Floor storage areas") to read as follows:

The "lower ground floor level" unit storage areas, labelled "UNIT 1 ST"; "UNIT 2 ST"; "UNIT 3 ST"; "UNIT 4 ST"; shall not to be used for habitable purposes and shall not to contain any cooking, bathroom/toilet or laundry facilities. The storage areas despite notation on the plan shall have not external openings or ventilation louvers.

Reason: To ensure that the storage areas are used for their intended purpose.

R. Add Condition 28D (Services and Fire Hydrant Enclosure) to read as follows:

Prior to the issue of a Construction Certificate for works above ground slab level, the Certifying Authority is to be provided with plans demonstrating that all Services (Gas meter, water meter & fire hydrant and sprinkler booster valves and the like) are enclosed in a manner that compliments the building and in accordance with the requirements of EP1.3 & EP1.4 of the BCA.

Reason: To ensure essential services are appropriately screened

S. Add Condition 75 (Roof top screening & AC Units) to read as follows

The roof top screening is to be located around the Lift shaft only and not more than 1.0m from the lift shaft walls and no AC units shall be located on the roof.

Reason: Reduce visual bulk

Important Information

This letter should therefore be read in conjunction with DA2019/0154 dated 28 July 2020; MOD2021/0101 dated 12 May 2021 and MOD2021/0343 dated 27 July 2021.

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.