

25 March 2025



Cite Developments No.2 Pty Ltd
C/- Sean Gartner Po Box 1122
MONA VALE NSW 1660

Dear Sir/Madam

Application Number: DA2024/0597
Address: Lot 10 DP 8172 , 21 Oaks Avenue, DEE WHY NSW 2099
Proposed Development: Demolition works and construction of Shop top Housing

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:	DA2024/0597
Determination Type:	Development Application

APPLICATION DETAILS

Applicant:	Cite Developments No.2 Pty Ltd
Land to be developed (Address):	Lot 10 DP 8172 , 21 Oaks Avenue DEE WHY NSW 2099
Proposed Development:	Demolition works and construction of Shop top Housing

DETERMINATION - REFUSED

Made on (Date)	19/03/2025
----------------	------------

Reasons for Refusal:

1. 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 (Housing) 2021 (SEPP Housing).

Particulars:

The proposal, due to the various non-compliances with the objectives of the ADG, fails to achieve the following Design Quality Principles at Schedule 9 SEPP Housing:

- 1: *Context and Neighbourhood Character;*
- 2: *Built Form and Scale;*
- 3: *Density;*
- 6: *Amenity;*
- 7: *Safety;*
- 8: *Housing Diversity and Social Interaction; and*
- 9: *Aesthetics.*

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 Clause Zone MU1 Mixed Use of the Warringah Local Environmental Plan 2011 (WLEP).

Particulars:

The proposal fails to achieve consistency with the objectives of the zone as the development does not:

- include adequate retail and other employment generating floor area;
- sufficiently contribute to the activation of the public domain interface or the vibrancy of the Dee Why Town Centre; or

- minimise amenity impacts and subsequent land use conflicts at the interface of the R3 Medium Density Residential zone to the south.

3. 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 4.3 Height of buildings of the WLEP.

Particulars:

The proposal does not comply with the development standard at Clause 4.3 Height of buildings. The height of buildings standard is unable to be varied within the Dee Why Town Centre pursuant to Clause 4.6(8A) of the WLEP.

4. Pursuant to Sections 4.15(1)(a)(i) and 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 5.21 Flood Planning of the WLEP and E11 Flood Prone Land of the Warringah Development Control Plan 2011 (WDCP).

Particulars:

The proposed retail tenancy fails to comply with the following requirements in E11 (C7) of the WDCP that apply where the floor level is below the Flood Planning Level (FPL) within the first 5m from the street frontage:

- *(b) The maximum internal distance from the front of the building is 5 metres, which can only apply to one side of an individual premises, and*
- *(c) The maximum area for the floor area to be below the Flood Planning Level for an individual premises is 30 square metres, and*
- *(d) There is direct internal access between areas above and below the Flood Planning Level for each individual premises.*

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 7.4 Development must be consistent with objectives for development and design excellence of the WLEP.

Particulars:

The proposal is inconsistent with the Objectives for development within Dee Why Town Centre in Clause 7.3 of the WLEP and does not demonstrate design excellence as required by Clauses 7.4 and 7.5 of the WLEP.

Consistency with the objectives in Clause 7.3 and demonstration of design excellence are pre-conditions to the granting of consent pursuant to Clause 7.4(1)(a) and (3).

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 7.12 Provisions promoting retail activity of the WLEP.

Particulars:

The proposal does not comply with the development standard at Clause 7.12 relating to the provision of employment generating floor space and no written variation request is submitted

pursuant to Clause 4.6 in support of the breach.

7. Pursuant to Sections 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 7.13 Mobility, traffic management and parking of the WLEP.

Particulars:

The proposed development does not comply with various requirements contained within the following sections of the WDCP:

- *C2 Traffic, Access and Safety*
- *C3 Parking Facilities*
- *G1(7) Traffic and Parking*

Specifically, the proposal does not incorporate adequate loading areas, facilitate safe and convenient circulation within parking areas or provide for satisfactory car parking dimensions and configuration.

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 C4 Stormwater of the WDCP.

Particulars:

The proposed vehicular crossing location conflicts with an existing Council stormwater lintel pit within the road reserve.

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 C9 Waste Management of the WDCP.

Particulars:

The proposal fails to comply with Council's Waste Management Design Guidelines in the following ways:

- The residential bin room is insufficient to accommodate the required number of bins.
- No bulky goods storage room is provided as required.
- The commercial bin room is insufficient to accommodate the required number of bins.

10. 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 Part G1 Dee Why Town Centre of the WDCP.

Particulars:

The proposed development does not comply with various requirements contained within the following sections of Part G1 Dee Why Town Centre:

- *3 Desired Character for the Dee Why Town Centre;*
- *4 Streetscape and Public Domain;*
- *5 Design and Architectural Diversity;*
- *6 Site amalgamation; and*
- *7 Traffic and Parking.*

The proposal's failure to comply with the requirements of these controls contributes to unacceptable outcomes in relation to the visual and built form of the development, amenity and activation of the public domain, the provision of high quality residential dwellings and safe and convenient car parking.

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 Steven Findlay, Manager Development Assessments

Date 19/03/2025