

10 January 2025



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

Dear Sir/Madam

Application Number: DA2024/0044
Address: Lot 11 DP 12435 , 27 Kevin Avenue, AVALON BEACH NSW 2107
Lot 10 DP 12435 , 25 Kevin Avenue, AVALON BEACH NSW 2107
Proposed Development: Demolition works and construction of Seniors Housing with
basement parking

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:	DA2024/0044
Determination Type:	Development Application

APPLICATION DETAILS

Applicant:	Sean Clive Gartner
Land to be developed (Address):	Lot 11 DP 12435 , 27 Kevin Avenue AVALON BEACH NSW 2107 Lot 10 DP 12435 , 25 Kevin Avenue AVALON BEACH NSW 2107
Proposed Development:	Demolition works and construction of Seniors Housing with basement parking

DETERMINATION - REFUSED

Made on (Date)	11/12/2024
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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 Clause 93 of SEPP Housing 2021.

Particulars:

(a) Specifically, the application is inconsistent with the provisions of Clause 93 for the following reasons:

- the proposed crossing of Kevin Avenue is in an unsafe location with sight lines obscured by a crest,
- the pathway involves encroachment of private property,
- insufficient survey detail has been provided to determine the gradient of the footpath, and
- the requirement for the relocation of signs and a Telstra service pit, and modification to a stormwater inlet are supported by insufficient information to fully assess the proposal and determine the suitability of the proposed pathway

(b) There is insufficient information to assess the impact of the proposed footpath on street trees.

(c) The proposal exceeds the development standard for a 400m distance to a transport service, and a Clause 4.6 written request has not been provided, hence there is no statutory power to approve any variation to the development standard.

2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development has provided insufficient information to assess the application in accordance with the provisions of Clause 4.6 Exceptions to development standards of the Pittwater Local Environmental Plan 2014, in relation to the variation under Clause 93 of State Environmental Planning Policy (Housing) 2021.

Particulars:

(a) The application involves excessive distances to a transport service, seeking a 441m distance to the south-bound bus stop and 415m to the north-bound bus stop, which are in excess of the 400m requirement under clause 93 of the SEPP.

(b) A Clause 4.6 written request has not been submitted with the application to address the variation. Therefore, the departure from the development standard cannot be supported, as it is a jurisdictional requirement.

3. 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 B6.3 Off-Street Vehicle Parking Requirements of the Pittwater 21 Development Control Plan.

Particulars:

The proposal does not comply with the requirement for four (4) visitor car parking spaces, as it contains no visitor parking.

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 85 (Car Parking) of State Environmental Planning Policy (Housing) 2021.

Particulars:

(a) The shared zones of the accessible spaces are obstructed by garage doors that restrict access.

(b) There is insufficient information submitted with the application in relation to swept paths to demonstrate access to parking is adequate.

5. 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:

(a) The proposed pathway to a transport service involve excessive distances to bus stops.

(b) The impacts of the construction of the pathway in Kevin Avenue and its suitability cannot be fully determined.

Therefore, the application is contrary to maintaining and protecting the public interest.

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 11/12/2024