

4 November 2024



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

Dear Sir/Madam

Application Number: Mod2024/0451
Address: Lot 114 DP 8394 , 73 Marine Parade, AVALON BEACH NSW 2107
Proposed Development: Modification of Development Consent DA2022/0084 granted for demolition works and construction of a dwelling house and swimming pool

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,



Olivia Ramage
Planner

NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT

Application Number:	Mod2024/0451 PAN-462315
Applicant:	Sean Clive Gartner C/- Sean Gartner Po Box 1122 MONA VALE NSW 1660
Property:	Lot 114 DP 8394 73 Marine Parade AVALON BEACH NSW 2107
Description of Development:	Modification of Development Consent DA2022/0084 granted for demolition works and construction of a dwelling house and swimming pool
Determination:	Approved Consent Authority: Northern Beaches Council
Date of Determination:	04/11/2024
Date from which the consent operates:	04/11/2024

Under Section 4.55 (1a) Minor Environmental Impact 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 Olivia Ramage, Planner

Date 04/11/2024

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN-462315 Mod2024/0451	The date of this notice of determination	<p>Modification of Development Consent DA2022/0084 granted for Demolition works and construction of a dwelling house, secondary dwelling and swimming pool.</p> <ul style="list-style-type: none"> • Add Condition 1B - Modification of Consent - Approved Plans and Supporting Documentation • Amend Condition 3 - Approved Land Use • Add Condition 3A - No Approval for Secondary Dwelling • Delete Condition 15 - Fire separation of garage top dwellings
PAN-368410 Mod2023/0494	24 November 2023	<p>Modification of Development Consent DA2022/0084 granted for Demolition works and construction of a dwelling house, secondary dwelling and swimming pool.</p> <ul style="list-style-type: none"> • Add Condition 1A - Modification of Consent - Approved Plans and Supporting Documentation • Amend Condition 49 - Landscape Maintenance

Modified conditions

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

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

Approved Plans				
Plan Number	Revision Number	Plan Title	Drawn By	Date of Plan
A.01	E	Site Plan	Gartner Trovato Architects	12 July 2024
A.02	E	Garage Plan	Gartner Trovato Architects	12 July 2024
A.03	E	Lower Level Plan	Gartner Trovato Architects	12 July 2024
A.04	E	Mid Level Plan	Gartner Trovato Architects	12 July 2024
A.05	E	Upper Level Plan	Gartner Trovato Architects	12 July 2024
A.06	E	Roof Plan	Gartner Trovato Architects	12 July 2024

A.07	E	South + East Elevations	Gartner Trovato Architects	12 July 2024
A.08	E	West Elevation	Gartner Trovato Architects	12 July 2024
A.09	E	North Elevation	Gartner Trovato Architects	12 July 2024
A.10	E	Sections A + B	Gartner Trovato Architects	12 July 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BASIX Certificate	1268226M_05	The Trustee for THE GTA TRUST	31 October 2024

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

B. Amend Condition 3 - Approved Land Use to read as follows:

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a dwelling house, in accordance with the Dictionary of the Pittwater Local Environmental Plan 2014, as follows:

Dwelling house means a building containing only one dwelling.

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

C. Add Condition 3A - No Approval for Secondary Dwelling to read as follows:

No approval is granted or implied under this Development Consent for the use of any part of the dwelling house for the purpose of a secondary dwelling or separate occupancy. Built in cooking facilities are not permitted to be installed, other than those shown in the designated kitchen area.

Reason: To ensure compliance with the terms of this consent.

D. Delete Condition 15 - Fire separation of garage top dwellings

Important Information

This letter should therefore be read in conjunction with DA2022/0084 dated 30 August 2022 and Mod2023/0494 dated 24 November 2023.

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.