

26 July 2021



My Manly Vale Pty Ltd
PO Box 1122
MONA VALE NSW 1660

Dear Sir/Madam

Application Number: DA2021/0179
Address: Lot 8 DP 604034 , 255 Condamine Street, MANLY VALE NSW 2093
Proposed Development: Construction of a boarding house 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,



Rodney Piggott
Manager Development Assessments

NOTICE OF DETERMINATION

Application Number:	DA2021/0179
Determination Type:	Development Application

APPLICATION DETAILS

Applicant:	My Manly Vale Pty Ltd
Land to be developed (Address):	Lot 8 DP 604034 , 255 Condamine Street MANLY VALE NSW 2093
Proposed Development:	Construction of a boarding house development

DETERMINATION - REFUSED

Made on (Date)	21/07/2021
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Reasons for Refusal:

1. In accordance with the provisions of s.4.47(2) of the *Environmental Planning and Assessment Act*, consent cannot be granted as general terms of approval have not been obtained the Natural Resources Access Regulator for Activity Approval required under s91 of the *Water Management Act*.
2. The application proposes works within the road reserve of a classified road and concurrence from Transport for NSW has not been obtained, inconsistent with the provisions of s138(2) of the *Roads Act*.
3. The proposed development breaches the maximum building height development standard and is inconsistent with the objectives of clause 4.3 of *Warringah Local Environmental Plan 2011* (WLEP 2011) and exceeds the three storey height control of clause B2 (Number of Storeys) of *Warringah Development Control Plan 2011* (WDGP 2011).
4. The applicant's written request under clause 4.6 of the WLEP 2011 seeking to justify a contravention of clause 4.3 Height of Buildings development standard has not adequately addressed and demonstrated that:
 - a) compliance with the standards is unreasonable or unnecessary in the circumstances of the case;
 - b) there are sufficient environmental planning grounds to justify the contraventions, and
 - c) the proposed development will be in the public interest because it is consistent with the objectives of the standards and the objectives for development within the zone in which the development is proposed to be carried out.
5. The extent of development over and within the waterway is inconsistent with Council's *Protection of Waterway and Riparian Land Policy*, and the requirements and objectives of clauses E6 (Retaining unique environmental features) and E8 (Waterways and Riparian Lands) of WDGP 2011.

6. The proposed development is not reflective of the character of the local area, specifically in relation to the treatment of the creekline and the relationship with the adjoining low density development at the rear, resulting in inconsistency with clause 30A of *State Environmental Planning Policy (Affordable Rental Housing)* (SEPP ARH).
7. The proposed development will result in adverse flood impacts upon adjoining properties, inconsistent with the provisions of clause 6.3 (Flood planning) of WLEP 2011 and clause E11 (Flood Prone Land) of WDCP 2011.
8. The proposed development is inconsistent with the minimum requirements and objectives of the front, rear and side setback controls, as prescribed by clauses B6 (Merit Assessment of Side Boundary Setbacks), B7 (Front Boundary Setbacks) and B10 (Merit Assessment of Rear Boundary Setbacks) of WDCP 2011. The bulk and scale of the built form does not appropriately respond to the pattern of adjoining development and is excessive, with unreasonable impacts upon adjoining properties and the streetscape, inconsistent with the provisions of clause F1 (Local and Neighbourhood Centres) of WDCP 2011.
9. The application has not demonstrated safe vehicular movement to/from or within the site, inconsistent with the provisions of clause 101 of *State Environmental Planning Policy (Infrastructure)* and the requirements and objectives of clause C2 (Traffic, Access and Safety) of WDCP 2011.
10. The proposed development results in an unacceptable shortfall (five spaces) of on-site car parking, inconsistent with the requirements and objectives of clause C3 (Parking Facilities) of WDCP 2011.
11. The application has not demonstrated a suitable stormwater management solution for the site, resulting in inconsistency with the requirements and objectives of C4 (Stormwater) of WDCP 2011. The absence of an appropriate stormwater solution also attributes to inconsistency with the provisions of clauses 6.3 (Earthworks) and 6.4 (Development on sloping land) of WLEP 2011, in addition to clause E10 (Landslip Risk) of WDCP 2011 noting that the subject site is identified as being prone to landslip.
12. The proposed development is inconsistent with *Northern Beaches Council's Waste Management Guidelines*, resulting in inconsistency with the requirements and objectives of clause C9 (Waste Management) of WDCP 2011.
13. The proposed undercroft area is inconsistent with the Crime Prevention through Environmental Design principles and the requirements and objectives of clause D20 (Safety and Security) of WDCP 2011.

Right to Review by the Council

You may request Council to review this determination of the application under Division 8.2 of the Environmental Planning & Assessment Act 1979. Any Division 8.2 Review of Determination application should be submitted to Council within 3 months of this determination, to enable the assessment and determination of the application within the 6 month timeframe.

NOTE: A fee will apply for any request to review the determination.

Right of Appeal

If you are dissatisfied with this decision Division 8.3 of the Environmental Planning & Assessment Act 1979 may give you the right to appeal to the Land and Environment Court within 6 months after the date on which you receive this notice.

Signed On behalf of the Consent Authority



Name Rodney Piggott, Manager Development Assessments

Date 21/07/2021