

28 February 2025



Mark Andrew Kenneth Davies
12 Oyama Avenue
MANLY NSW 2095

Dear Sir/Madam

Application Number: Mod2024/0568
Address: Lot 28 DP 8075 , 32 Bower Street, MANLY NSW 2095
Proposed Development: Modification of Development Consent DA2019/0916 granted for Demolition works and construction of a dwelling house including swimming pools

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,



Rodney Piggott
Manager Development Assessments

NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT

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|--|--|
| Application Number: | Mod2024/0568 PAN-476019 |
| Applicant: | Mark Andrew Kenneth Davies 12 Oyama Avenue MANLY NSW 2095 |
| Property: | Lot 28 DP 8075 32 Bower Street MANLY NSW 2095 |
| Description of Development: | Modification of Development Consent DA2019/0916 granted for Demolition works and construction of a dwelling house including swimming pools |
| Determination: | Approved Consent Authority: Northern Beaches Council |
| Date of Determination: | 26/02/2025 |
| Date from which the consent operates: | 26/02/2025 |

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 Rodney Piggott, Manager Development Assessments

Date 26/02/2025

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

| Application Number | Determination Date | Modification description |
|----------------------------|--|--|
| PAN-476019 Mod2024/0568 | The date of this notice of determination | <p>Internal and external alterations and landscaping changes.</p> <p>Additional Conditions:</p> <ul style="list-style-type: none"> • Condition 1B Modification of Consent - Approved Plans and Supporting Documentation • Condition 1C No Consent for Constructed Works • Condition 2A Compliance with Other Department, Authority or Service Requirements • Condition 40E Aboriginal Heritage • Condition 56 Compliance with Ecologist's Recommendations – Ongoing • Condition 57 Protection of Habitat Features <p>Amended Conditions:</p> <ul style="list-style-type: none"> • Condition 24 Compliance with Ecologist's Recommendations – During Construction • Condition 41 Landscape Completion |
| PAN-323728 Mod2023/0211 | 31 October 2023 | <p>Reconfiguration of the approved pavilions, driveway, pools, and landscaping.</p> <p>Additional Conditions:</p> <ul style="list-style-type: none"> • Condition 1A Modification of Consent - Approved Plans and Supporting Documentation <p>Amended Conditions:</p> <ul style="list-style-type: none"> • Condition 2 Compliance with Other Department, Authority or Service Requirements • Condition 22 Tree Removal Within the Property • Condition 34 Project Arborist • Condition 35 Tree and Vegetation Protection • Condition 41 Landscape Works <p>Deleted Conditions:</p> <ul style="list-style-type: none"> • Condition 11 Amended Landscape Plan |

Modified Conditions

A. Add Condition 1B 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.01.01-B | B | General Arrangement / Site Plan | Eaton Molina Architects | 31 January 2025 |
| A.02.01-B | B | General Arrangement / Levels 1 + 2 + 3 | Eaton Molina Architects | 31 January 2025 |
| A.02.02-B | B | General Arrangement / Level 4 + Roof Plans | Eaton Molina Architects | 31 January 2025 |
| A.03.01-B | B | General Arrangement / East + West Elevations | Eaton Molina Architects | 31 January 2025 |
| A.03.02-A | A | General Arrangement / North + Elevations | Eaton Molina Architects | 22 July 2024 |
| A.03.03-A | A | General Arrangement / Section A-A & Height Blanket Perspective | Eaton Molina Architects | 22 July 2024 |
| L-S4.55-04 | C | Landscape Plan - Masterplan | 360 Degrees Landscape Architects | 6 December 2024 |
| L-S4.55-05 | C | Landscape Plan - Level 1 | 360 Degrees Landscape Architects | 6 December 2024 |
| SW(S4.55) 1.1 | 1 | General Notes and Specifications | Partridge Hydraulics | August 2024 |
| SW(S4.55) 1.3 | 1 | Erosion & Sediment Control Plan and Details | Partridge Hydraulics | August 2024 |
| SW(S4.55) 1.4 | 1 | Site Plan | Partridge Hydraulics | August 2024 |
| SW(S4.55) 1.5 | 1 | Stormwater Drainage Plan Site & Studio Ground Floor Plan | Partridge Hydraulics | August 2024 |
| SW(S4.55) 1.6 | 1 | Stormwater Drainage Plan Level 1 Building Floor Plan | Partridge Hydraulics | August 2024 |
| SW(S4.55) 1.7 | 1 | Stormwater Drainage Plan Level 2 Building Floor Plan | Partridge Hydraulics | August 2024 |
| SW(S4.55) 1.8 | 1 | Stormwater Drainage Plan Level 3 Building Floor Plan | Partridge Hydraulics | 20 August 2024 |

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|-------------------|---|--|----------------------|-------------|
| SW(S4.55) 1.9 | 1 | Stormwater Drainage Plan Level 4 & Roof | Partridge Hydraulics | August 2024 |
| SW(S4.55) 1.10 | 1 | Details Sheet | Partridge Hydraulics | August 2024 |

| Approved Reports and Documentation | | | |
|---|-----------------------|---|-------------------------|
| Document Title | Version Number | Prepared By | Date of Document |
| BASIX Certificate No. 999238S_06 | - | Eco Certificates Pty Ltd | 26 July 2024 |
| Bushfire Assessment Report Addendum | 230316B | Building Code & Bushfire Hazard Solutions | 22 August 2024 |
| Geotechnical Assessment | 2015-241.1 | Crozier Geotechnical Consultants | 31 July 2024 |
| NatHERS Certificate HR-MOTBUK-04 | - | Eco Certificates Pty Ltd | 26 July 2024 |
| Terrestrial Biodiversity Report | 2 | GIS Environmental Consultants | 12 August 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. Add Condition 1C No Consent for Constructed Works, to read as follows:

No consent is granted for the already-constructed works marked on the approved plans as "subject to separate application for B.I.C.".

Reason: To ensure consistency with this consent.

C. Add Condition 2A 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 |
|---|---------------------------|------------------|
| Ausgrid | Ausgrid Referral Response | 12 November 2024 |

(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.

D. Modify Condition 24 Compliance with Ecologist's Recommendations – During Construction to read as follows:

All impact mitigation measures specified in the approved Terrestrial Biodiversity Report (GIS Environmental Consultants, August 2024) are to be implemented at the appropriate stage of development.

Compliance with these measures is to be certified by the Project Ecologist in writing to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

E. Add Condition 40E Aboriginal Heritage to read as follows:

If in undertaking excavations or works any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Northern Beaches Council, and the Cultural Heritage Division of the Department of Planning, Housing and Infrastructure.

Any work to a site that is discovered to be the location of an Aboriginal object, within the meaning of the National Parks and Wildlife Act 1974, requires a permit from the Director of the Department of Planning, Housing and Infrastructure.

Reason: Aboriginal Heritage Protection.

F. Modify Condition 41 Landscape Completion to read as follows:

a) Landscape works are to be implemented in accordance with the approved amended Landscape Plan(s), and inclusive of the following conditions:

- i) Landscape works are to be contained within the legal property boundaries,
- ii) Planting shall be installed as indicated on the approved Landscape Plan(s) unless otherwise imposed by any conditions,
- iii) At minimum two (2) *Glochidion ferdinandi* shall be installed within the property boundary, one in the rear setback and one in the front setback; three (3) *Livistona australis* and one (1) *Ficus rubiginosa* shall be installed within the property boundaries,
- iv) All native tree planting shall be a minimum pre-ordered planting size of 100 litres or as otherwise scheduled if greater in size; meet the requirements of Natspec - Specifying Trees; planted into a prepared planting hole 1m x 1m x 600mm depth generally, backfilled with a sandy loam mix or approved similar, mulched to 75mm depth minimum and maintained, and watered until established; and shall be located at least 3.0 metres from buildings and other trees or more, at least 1.5 metres from common boundaries; and located either within garden bed or within a prepared bed within lawn,
- v) Mass planting shall be installed in a garden bed prepared with a suitable free draining soil mix and minimum 75mm depth of mulch,
- vi) The area in the rear setback (adjacent to Marine Parade) shown as existing garden to be retained shall be mass planted in accordance with Condition 20E Amendment of Landscape Plans,
- vii) Where swimming pools are part of the development works, selected planting shall comply with the planting and care requirements of AS1926.1 for a non-climbable zone,
- viii) Where the property is certified Bush Fire Prone Land, any new planting may be managed in accordance with Planning for Bushfire Protection 2019; the trees specified in ii) shall take priority for installation should APZ requirements limit proposed tree planting.

b) Prior to the issue of an Occupation Certificate, details (from a landscape architect, landscape

designer or qualified horticulturalist) shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

G. Add Condition 56 Compliance with Ecologist's Recommendations – Ongoing to read as follows:

All impact mitigation measures specified in the approved Terrestrial Biodiversity Report (GIS Environmental Consultants, August 2024) are to be implemented at the appropriate stage of development.

Successful establishment/initiation of ongoing biodiversity measures is to be certified by the Project Ecologist in writing to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To confirm compliance with wildlife and habitat protection/replacement measures.

H. Add Condition 57 Protection of Habitat Features to read as follows:

All natural landscape features, including any rock outcrops, native vegetation, soil and/or watercourses, are to remain undisturbed except where affected by necessary works detailed on approved plans.

Reason: To protect wildlife habitat.

Important Information

This letter should therefore be read in conjunction with DA2019/0916 dated 26 February 2020, and Mod 2023/0211 dated 31 October 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.