

29 July 2022

Forest Apartments Pty Limited  
PO Box 266  
MONA VALE NSW 1660

Dear Sir/Madam

**Application Number:** DA2021/2362

**Address:** LOT 1 S/P 87024 , 1 / 1105 Barrenjoey Road, PALM BEACH NSW 2108  
LOT 1 S/P 87024 , 1 / 1105 Barrenjoey Road, PALM BEACH NSW 2108  
LOT 2 S/P 87024 , 2 / 1105 Barrenjoey Road, PALM BEACH NSW 2108  
LOT 2 S/P 87024 , 2 / 1105 Barrenjoey Road, PALM BEACH NSW 2108  
LOT 3 S/P 87024 , 3 / 1105 Barrenjoey Road, PALM BEACH NSW 2108  
LOT 3 S/P 87024 , 3 / 1105 Barrenjoey Road, PALM BEACH NSW 2108  
LOT 4 S/P 87024 , 4 / 1105 Barrenjoey Road, PALM BEACH NSW 2108  
LOT 4 S/P 87024 , 4 / 1105 Barrenjoey Road, PALM BEACH NSW 2108  
LOT 5 S/P 87024 , 5 / 1105 Barrenjoey Road, PALM BEACH NSW 2108  
LOT 5 S/P 87024 , 5 / 1105 Barrenjoey Road, PALM BEACH NSW 2108  
Lot CP SP 87022 , 43 Iluka Road, PALM BEACH NSW 2108  
LOT 1 S/P 87022 , 1 / 43 Iluka Road, PALM BEACH NSW 2108  
LOT 1 S/P 87022 , 1 / 43 Iluka Road, PALM BEACH NSW 2108  
LOT 2 S/P 87022 , 2 / 43 Iluka Road, PALM BEACH NSW 2108  
LOT 2 S/P 87022 , 2 / 43 Iluka Road, PALM BEACH NSW 2108  
LOT 3 S/P 87022 , 3 / 43 Iluka Road, PALM BEACH NSW 2108  
LOT 3 S/P 87022 , 3 / 43 Iluka Road, PALM BEACH NSW 2108  
Lot CP SP 87024 , 1105 Barrenjoey Road, PALM BEACH NSW 2108

**Proposed Development:** Demolition works and construction of a shop top housing 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](http://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](mailto:council@northernbeaches.nsw.gov.au)

Regards,



Steven Findlay  
**Manager Development Assessments**

## NOTICE OF DETERMINATION

<b>Application Number:</b>	DA2021/2362
<b>Determination Type:</b>	Development Application

### APPLICATION DETAILS

<b>Applicant:</b>	Forest Apartments Pty Limited
<b>Land to be developed (Address):</b>	<p>LOT 1 S/P 87024 , 1 / 1105 Barrenjoey Road PALM BEACH NSW 2108</p> <p>LOT 1 S/P 87024 , 1 / 1105 Barrenjoey Road PALM BEACH NSW 2108</p> <p>LOT 2 S/P 87024 , 2 / 1105 Barrenjoey Road PALM BEACH NSW 2108</p> <p>LOT 2 S/P 87024 , 2 / 1105 Barrenjoey Road PALM BEACH NSW 2108</p> <p>LOT 3 S/P 87024 , 3 / 1105 Barrenjoey Road PALM BEACH NSW 2108</p> <p>LOT 3 S/P 87024 , 3 / 1105 Barrenjoey Road PALM BEACH NSW 2108</p> <p>LOT 4 S/P 87024 , 4 / 1105 Barrenjoey Road PALM BEACH NSW 2108</p> <p>LOT 4 S/P 87024 , 4 / 1105 Barrenjoey Road PALM BEACH NSW 2108</p> <p>LOT 5 S/P 87024 , 5 / 1105 Barrenjoey Road PALM BEACH NSW 2108</p> <p>LOT 5 S/P 87024 , 5 / 1105 Barrenjoey Road PALM BEACH NSW 2108</p> <p>Lot CP SP 87022 , 43 Iluka Road PALM BEACH NSW 2108</p> <p>LOT 1 S/P 87022 , 1 / 43 Iluka Road PALM BEACH NSW 2108</p> <p>LOT 1 S/P 87022 , 1 / 43 Iluka Road PALM BEACH NSW 2108</p> <p>LOT 2 S/P 87022 , 2 / 43 Iluka Road PALM BEACH NSW 2108</p> <p>LOT 2 S/P 87022 , 2 / 43 Iluka Road PALM BEACH NSW 2108</p> <p>LOT 3 S/P 87022 , 3 / 43 Iluka Road PALM BEACH NSW 2108</p> <p>LOT 3 S/P 87022 , 3 / 43 Iluka Road PALM BEACH NSW 2108</p> <p>Lot CP SP 87024 , 1105 Barrenjoey Road PALM BEACH NSW 2108</p>
<b>Proposed Development:</b>	Demolition works and construction of a shop top housing development

### DETERMINATION - REFUSED

## Reasons for Refusal:

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is a prohibited land use under the Pittwater Local Environmental Plan 2014.
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with Clause 4.6 Exceptions to development standards under the Pittwater Local Environmental Plan 2014 as the applicant's written request for variation has not demonstrated sufficient environmental planning grounds to justify a variation to the Height of Buildings development standard.
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 State Environmental Planning Policy 55 – Remediation of Land in that insufficient information has been provided with regards to potential contamination, and to satisfy Council that the land is suitable for residential development.
4. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the absence of detail regarding land contamination results in there being insufficient information to demonstrate compliance with State Environmental planning Policy (Coastal Management Act) 2018. Council is not satisfied that the potential contamination of the site will not impact on an endangered species in the adjacent waterway (*Posidonia australis*).
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 State Environmental Planning Policy (Design Quality of Residential Flat Development).
6. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the following provisions of the Pittwater Local Environmental Plan 2014:
  - a. Clause 1.2 Aims of the Plan.
  - b. Clause 7.1 Acid Sulphate Soils.
  - c. Clause 7.2 Earthworks.
  - d. Clause 7.6 Biodiversity Protection.
7. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the following provision of the Pittwater 21 Development Control Plan 2014:
  - a. Clause B5.15 Stormwater and Northern Beaches Council Water Management for Development Policy.
  - b. Clause B6.3 Off-Street Vehicle Parking Requirements.

- c. Clause C1.1 Landscaping.
  - d. Clause C1.3 View Sharing.
  - e. Clause C1.4 Solar Access as the submitted solar diagrams are incorrect.
  - f. Clause C1.12 Waste and Recycling Facilities.
  - g. Clause C1.25 Plant, Equipment Boxes and Lift Over-Run.
  - h. Clause D12.5 Front Building Line.
  - i. Clause C12.8 Building Envelope.
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Pittwater Local Environmental Plan 2014.

## 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 must be lodged on the NSW Planning portal 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



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Name                Steven Findlay, Manager Development Assessments

Date                 20/07/2022