

5 March 2024



Green Kingswood Pty Ltd
Level 8 123 Pitt Street
SYDNEY NSW 2000

Dear Sir/Madam

Application Number: DA2023/0976
Address: Lot 1 DP 592091 , 20 - 22 Macpherson Street, WARRIEWOOD
NSW 2102
Proposed Development: Demolition works, subdivision into 53 lots and one community
title lot, construction of 53 dwellings, including internal
roadways, stormwater, creekline rehabilitation and landscape
works

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,



Peter Robinson
Manager Development Assessments

NOTICE OF DETERMINATION

Application Number:	DA2023/0976
Determination Type:	Development Application

APPLICATION DETAILS

Applicant:	Green Kingswood Pty Ltd
Land to be developed (Address):	Lot 1 DP 592091 , 20 - 22 Macpherson Street WARRIEWOOD NSW 2102
Proposed Development:	Demolition works, subdivision into 53 lots and one community title lot, construction of 53 dwellings, including internal roadways, stormwater, creekline rehabilitation and landscape works

DETERMINATION - REFUSED

Made on (Date)	19/02/2024
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Reasons for Refusal:

- 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 the Environmental Planning and Assessment Act 1979.

Particulars

- The proposal is inconsistent with Section 4.15(1) of the act. This includes (i) any environmental planning instrument, (iii) any development control plan, and (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph).
- 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 (Resilience and Hazards) 2021.

Particulars

- A detailed site investigation to assess data gaps at the site, including further assessment for the recorded Underground Storage Tanks, characterization of contamination in the existing building footprints when access becomes available and further groundwater assessment.
- A remediation action plan (RAP) is required to address the identified asbestos contamination and the former Underground Storage Tanks as well as any other contamination identified during further investigation or site works. The RAP should include an Unexpected Finds Protocol (UFP) and an Asbestos Finds Protocol describing how unexpected contamination and

asbestos finds identified during constructions works will be managed. A detailed asbestos assessment may be required to inform the remediation decision. A validation assessment report will be required to validate the success of the remediation works recommended by the RAP.

c) A hazardous building materials (HBM) assessment will be required for existing site buildings / structures prior to demolition. Hazardous materials will need to be removed in accordance with relevant legislation and guidelines prior to demolition and certified by a suitably qualified person.

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 Clause 5.21 Flood planning of the Pittwater Local Environmental Plan 2014.

Particulars

- a) Adverse impacts
- b) 1% AEP Event
- c) PMF Event
- d) Additional information required:

- 1) Additional reference points for flood results, to detail specific values for flood impacts in other flood impacted areas such as at 18 Macpherson St and the Macpherson St roadway.
- 2) Re-mapping of Figures D1, D2 and D3 so that the categories in the legend don't overlap. The range 0.02m to 0.05m would be more appropriate than 0.01 to 0.05m.
- 3) Information on FPLs across the property.
- 4) Clarification regarding the ground elevations on both sides of the front and side boundaries.
- 5) Clarification and discussion regarding the impact of these higher ground elevations, and the corresponding impact on the increased flood levels on the neighbouring properties and roadways. This should include discussion on why the filling and floor levels need to be so high and whether they could be lowered.
- 6) If removal of the adverse impacts is not possible, justification as to why not.
- 7) Mapping of the difference in Velocity x Depth product for the 1% AEP and PMF events.
- 8) Demonstration that each of the requirements in Table 4.3 of the Warriewood Valley Urban Land Release Water Management Specification (2001) has been met.
- 9) If/when the FIRA is updated, improvement of the colour schemes as noted above and with the cadastre boundaries plotted on top of the flooding extents rather than underneath, to make it easier to determine the extent of flooding encroaching across the boundary.

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 7.1 Acid sulfate soils of the Pittwater Local Environmental Plan 2014.

Particular

- a) An acid sulfate soil management plan (ASSMP) is required.
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 Clause 7.2 Earthworks of the Pittwater Local Environmental Plan 2014.

Particulars

- a) A Preliminary site inspection needs to be provided and considered by Consent Authority in relation to Clause 7.2(f)
 - b) Further information is required with regard to any retaining walls that will be required on the boundaries, associated retaining walls will result in unreasonable amenity impacts on adjoining properties.
6. 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 7.6 Biodiversity protection of the Pittwater Local Environmental Plan 2014.

Particulars

- a) Breach of 25 metre Outer Riparian Corridor and inappropriate design for riparian corridor
 - b) More detail required for VMP
7. 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 B1.4 Aboriginal Heritage Significance of the Pittwater 21 Development Control Plan.

Particulars

- a) A Preliminary ('due diligence') site inspection needs to be provided.
8. 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 B3.6 Contaminated Land and Potentially Contaminated Land of the Pittwater 21 Development Control Plan.
9. 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 B3.11 Flood Prone Land of the Pittwater 21 Development Control Plan.
10. 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 B5.15 Flood Prone Land of the Pittwater 21 Development Control Plan.

Particulars

- a) Further Details are required with regard to OSD including the requirement for a DRAINS Model
 - b) Issues with internal road
11. 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 B8.6 Construction and Demolition - Traffic Management Plan of the Pittwater 21 Development Control Plan.

Particular

- a) A Construction and Traffic Management Plan is required.
12. 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 C1.9 Adaptable Housing and Accessibility of the Pittwater 21 Development Control Plan.

Particular

- a) Certification from an accredited access consultant confirming that the nominated adaptable dwellings are capable of being modified is required
13. 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 C1.12 Waste and Recycling Facilities of the Pittwater 21 Development Control Plan.
14. 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 C6.1 Integrated Water Cycle Management of the Pittwater 21 Development Control Plan.

Particulars

- a) Unacceptable encroachment in to Outer Creekline Corridor area
b) Lack of Landscape Plan for Inner and Outer Creekline Corridor areas
15. 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 C6.2 Natural Environment and Landscaping Principles of the Pittwater 21 Development Control Plan.

Particulars

- a) Unacceptable encroachment in to Outer Creekline Corridor area
b) Unacceptable design for Creekline corridor (relating to natural environment)
16. 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 C6.4 The Road System and Pedestrian and Cyclist Network of the Pittwater 21 Development Control Plan.

Particulars

- a) Internal road design is unsuitable due to:
-lack of road widths
-lack of street planting
-lack of on-street parking
-lack of opportunity for truck circulation (waste) and;
-lack of evidence to show appropriate relationship between safe pedestrian and vehicular movements
17. 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 C6.8 Residential Development Subdivision Principles of the Pittwater 21 Development Control Plan.

Particulars

- a) Non compliance with the following controls leads to inappropriate visual presentation of development:

“Lots less than 225m² in size or less than 9m wide are to be rear loaded, except where it can be demonstrated that:

- rear access is not practical due to the size or shape of the development site; or*
- there will be no adverse impact on streetscape amenity and on-street parking.”*

and,

“A ‘break’ (i.e. a larger lot width, an indentation in the dwelling with a width and depth of 1.5m on both levels, a housing product of a different width, a detached housing product) is to be provided

between every 3 attached/abutting dwellings of the same lot width.”

18. 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 D16.1 Character as viewed from a public place of the Pittwater 21 Development Control Plan.

Particular

a) The proposal does not comply with controls of the clause and does not achieve desired future character

19. 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 D16.6 Front building lines of the Pittwater 21 Development Control Plan.

Particular

a) The proposal does not comply with the controls for front setbacks and this contributes to the dominant and overbearing presentation of Built form.

20. 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 D16.7 Side and rear building lines of the Pittwater 21 Development Control Plan.

Particulars

a) The proposal does not comply with the controls for rear setbacks and this contributes to the dominant and overbearing presentation of Built form.

b) Lack of information to show mitigation of privacy impacts

21. Pursuant to Section 4.15(1)(a)(iv) of the Environmental Planning and Assessment Act 1979, insufficient information has been submitted to enable the assessment of the application.

Particulars

a) Detailing of retaining walls relating to the large amounts of fill and earthworks

b) Detailing of the exact location of the inner and outer creekline corridor on Architectural plans

c) A Preliminary, 'due diligence' inspection for Aboriginal Heritage.

d) Consistency between Architectural Plans and Landscape plans inconsistent. Architectural plans show landscaped private open space. Landscape plans show timber decks in this

location.

e) A Landscape Plan for Inner and Outer Creekline corridors

f) An Certification from an accredited access consultant confirming that the nominated adaptable dwellings are capable of being modified, when required by the occupant, to comply with AS 4299:1995 Adaptable Housing.

g) A Construction and Traffic Management Plan (CTMP).

h) Boundaries identified on floor plans

i) All additional information detailed in the internal referrals section of this report.

j) Lack of response to issued raised by Design and Sustainability Advisory Panel

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 6 months 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 Peter Robinson, Manager Development Assessments

Date 19/02/2024

NOTE: Signed by Northern Beaches Council in accordance with the Environmental Planning and Assessment Act 1979 and EP&A Regulation 2000 as determined by the Sydney North Planning Panel on 19/02/2024.