

7 December 2023



Pyco At Greenslopes Pty Ltd
1 / 9 Narabang Way
BELROSE NSW 2085

Dear Sir/Madam

Application Number: DA2022/1985
Address: Lot A DP 412396 , 27 Waine Street, FRESHWATER NSW 2096
Proposed Development: Demolition works and construction of a residential flat building.

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,



Adam Richardson
Manager Development Assessments

NOTICE OF DETERMINATION

Application Number:	DA2022/1985
Determination Type:	Development Application

APPLICATION DETAILS

Applicant:	Pyco At Greenslopes Pty Ltd
Land to be developed (Address):	Lot A DP 412396 , 27 Waine Street FRESHWATER NSW 2096
Proposed Development:	Demolition works and construction of a residential flat building.

DETERMINATION - REFUSED

Made on (Date)	06/12/2023
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Reasons for Refusal:

1. 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 4.6 Exceptions to Development Standards of the Warringah Local Environmental Plan 2011.

Particulars:

Council is not satisfied that:

- a) the applicant's written requests under clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of the clause 4.3(Height of Buildings) WLEP 2011 development standard has adequately addressed and demonstrated that:
 - i. compliance with the standards is unreasonable or unnecessary in the circumstances of the case; and
 - ii. there are sufficient environmental planning grounds to justify the contraventions.
- b) 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.

2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is contrary to the provisions of Clause 4.3 Height of Buildings of the Warringah Local Environmental Plan 2011.

Particulars:

Clause 4.3 specifies that the height of building is not to exceed 11 metres. The proposed development has maximum height of 12.67 metres. Consequently:

a) the proposed development, by virtue of its bulk and height, will not be consistent with the desired character of the locality.

b) the proposed development will not be compatible with the height and scale of surrounding and nearby development and results in a jarring transition to the adjacent low density R2 zoned properties.

3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposal is not considered to satisfactorily meet the relevant Design Quality Principles of SEPP 65 as required by Clause 28(2)(c) of the SEPP, in particular Principle 1: Context and Neighbourhood Character, Principle 2: Built Form and Scale, Principle 3: Density, Principle 5: Landscape and Principle 9: Aesthetics.

4. 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 B2 Number of Storeys of the Warringah Development Control Plan.

Particulars:

i. The proposed development exceeds the maximum number of storeys permitted on the site and the non-compliant storey will not be compatible with the height and scale of surrounding and nearby development.

5. 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 Side Boundary Envelope, B7 Front Boundary Setback and D9 Building Bulk of the Warringah Development Control Plan.

Particulars:

i. The proposed is inconsistent with the numerical controls and objectives of the control B3 Side Boundary Envelope, B7 Front Boundary Setback and D9 Building Bulk and presents an unacceptable level of visual bulk and scale as a result of the fourth storey.

6. 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 D1 Landscaped Open Space and Bushland Setting of the Warringah Development Control Plan.

Particulars

i. The proposal does not allow for sufficient landscaped open space to offset the height, bulk and scale of the building and fails to achieve numerical compliance with the Control.

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

Adam Richardson, Manager Development Assessments

Date

06/12/2023