

7 May 2024



Andrew Darroch
6/20 Wylde Street
POTTS POINT NSW 2011

Dear Sir/Madam

Application Number: DA2023/1346
Address: Lot 13 DP 1275411 , 1180 Barrenjoey Road, PALM BEACH NSW 2108
Proposed Development: Use of part of the building as a dwelling house

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,



Megan Surtees
Planner

NOTICE OF DETERMINATION

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|----------------------------|-------------------------|
| Application Number: | DA2023/1346 |
| Determination Type: | Development Application |

APPLICATION DETAILS

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| Applicant: | Andrew Darroch |
| Land to be developed (Address): | Lot 13 DP 1275411 , 1180 Barrenjoey Road PALM BEACH NSW 2108 |
| Proposed Development: | Use of part of the building as a dwelling house |

DETERMINATION - REFUSED

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|-----------------------|------------|
| Made on (Date) | 07/05/2024 |
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Reasons for Refusal:

- 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 5.21 Flood Planning of the *Pittwater Local Environmental Plan 2014*. Pursuant to Section 4.15(1)(c) of the environmental planning and Assessment Act 1979 the site is not considered suitable for the proposed development.

Particulars

- As the existing basement level does not meet the flood planning level of 6.39 metres AHD, the as-built works do not incorporate adequate design and mitigation measures to minimise flood risk to life and property, and the development is, therefore, not compatible with the flood function and behavior on the land. The proposed use of as-built works do not meet the prescribed requirements of Clause 5.21 of the *Pittwater Local Environmental Plan 2014*.
- The modelled flood environ and the sites susceptibility to flood is such that use of the proposed area for habitable purposes presents an unacceptable impact to property and life. As such the site is not considered to be suitable for habitable floor area below the flood planning level.
- The proposed development is not considered to be within the public's interest due to the risk to safety of life and impact on property.

- 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.

Particulars

The subject site is located within flood prone land, and is subject to a flood planning level of 6.39 metres AHD. The as-built works which are subject to the use under this application are

sited on the basement level of the dwelling on site are below the required flood planning level with a floor level at 4.63 metres AHD,. As such, the as-built works are significantly below the flood planning level, are highly susceptible to flood and do not achieve compliance with the requirements of B3.11 of the P21 DCP.

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 Megan Surtees, Planner

Date 07/05/2024