

11 June 2024

Barry Babikian
3.09/77 Dunning Avenue
ROSEBERY NSW 2018

Dear Sir/Madam

Application Number: DA2023/1532
Address: Lot 2 DP 412086 , 15 Ocean Road, PALM BEACH NSW 2108
Proposed Development: Demolition works and construction of a dwelling house including swimming pool

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,



Steven Findlay
Manager Development Assessments

NOTICE OF DETERMINATION

Application Number:	DA2023/1532
Determination Type:	Development Application

APPLICATION DETAILS

Applicant:	Barry Babikian
Land to be developed (Address):	Lot 2 DP 412086 , 15 Ocean Road PALM BEACH NSW 2108
Proposed Development:	Demolition works and construction of a dwelling house including swimming pool

DETERMINATION - REFUSED

Made on (Date)	05/06/2024
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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 Clause 4.6 Exceptions to Development Standards of the Pittwater Local Environmental Plan 2014.**

Particulars

a) Council is not satisfied that the applicant's variation request under Clause 4.6 of Pittwater Local Environmental Plan 2014 seeking to justify a contravention of Clause 4.3 Height of Buildings:

- has adequately demonstrated that compliance with the standards is unreasonable or unnecessary,
- that there are sufficient environmental planning grounds to justify the contravention,
- that the proposed development will be in the public interest.

- 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 4.3 Height of Buildings of the Pittwater Local Environmental Plan 2014.**

Particulars

The Proposal is inconsistent with the underlying objectives of Clause 4.3 Height of Buildings of the Pittwater Local Environmental Plan 2014.

- 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.**

Particulars

The Proposal is not consistent with the Desired Future Character of Pittwater's localities.

- Assessment Act 1979, the proposed development is inconsistent with the provisions of the C4 Environmental Living zone of the Pittwater Local Environmental Plan 2014, Clause A4.12 Palm Beach Locality of the Pittwater 21 Development Control Plan and Chapter 2 Coastal Management of SEPP (Resilience and Hazards) 2021.**

Particulars

The Proposal, due to its excessive bulk, its impact on the amenity of adjoining properties and users of the public domain, and its poor relationship with the subject property and the surrounding environment, is inconsistent with:

- a) the objectives of the C4 Environmental Living Zone,
- b) the Desired Future Character provisions of the Palm Beach Locality, and
- c) the visual amenity provisions of Chapter 2 of SEPP (Resilience and Hazards).

- 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 B8.1 Construction and Demolition - Excavation and Landfill of the Pittwater 21 Development Control Plan.**

Particulars

The proposed volume and depth of excavation to accommodate the proposed development is excessive and do not respond to the topography of the site.

- 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 C1.4 Solar Access of the Pittwater 21 Development Control Plan.**

Particulars

The proposed building height, bulk, siting and design result in unacceptable overshadowing of adjoining properties.

- 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 C1.5 Visual Privacy of the Pittwater 21 Development Control Plan.**

Particulars

The proposed building height, bulk, siting and design result in unacceptable privacy and visual impacts on adjoining properties.

- 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 D12.8 Building Envelope of the Pittwater 21 Development Control Plan.**

Particulars

The proposed breaches of the building envelope control contribute the excessive bulk

and scale of the dwelling that would result in adverse amenity impacts upon adjoining properties and diminish the character of the surrounding locality.

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 D12.10 Landscaped Area - Environmentally Sensitive Land of the Pittwater 21 Development Control Plan.**

Particulars

The proposed landscaped area is insufficient in relation to the site area and the scale of the proposed dwelling. The shortfall in landscaped area is reflective of the excessive building footprint and inconsistency with the landscape character of the locality.

10. **Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.**

Particulars

The development assessment has found the proposal to be contrary to relevant requirements of the Pittwater Local Environmental Plan 2014 and Pittwater 21 Development Control Plan. As such it will result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community. In this regard, the development, as proposed, is not considered to be in the public interest.

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 Steven Findlay, Manager Development Assessments

Date 05/06/2024