

9 February 2023

Sean Clive Gartner  
Po Box 1122  
MONA VALE NSW 2103

Dear Sir/Madam

**Application Number:** Mod2022/0460  
**Address:** Lot 51 DP 740538 , 1772 Pittwater Road, BAYVIEW NSW 2104  
**Proposed Development:** Modification of Development Consent DA2020/0014 granted for Demolition works and construction of a dwelling house including a swimming pool

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,



Stephanie Gelder  
**Planner**

## NOTICE OF DETERMINATION

<b>Application Number:</b>	Mod2022/0460
<b>Determination Type:</b>	Modification of Development Consent

### APPLICATION DETAILS

<b>Applicant:</b>	Sean Clive Gartner
<b>Land to be developed (Address):</b>	Lot 51 DP 740538 , 1772 Pittwater Road BAYVIEW NSW 2104
<b>Proposed Development:</b>	Modification of Development Consent DA2020/0014 granted for Demolition works and construction of a dwelling house including a swimming pool

### DETERMINATION - APPROVED

<b>Made on (Date)</b>	09/02/2023
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The request to modify the above-mentioned Development Consent has been approved as follows:

#### A. Add Condition No.1A - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

##### a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Site Plan - A01	3 February 2023	No Author
Ground Floor Plan - A02	3 February 2023	No Author
Level 1 Plan - A03	3 February 2023	No Author
Level 2 Plan - A04	3 February 2023	No Author
Roof Plan - A05	3 February 2023	No Author
Elevations (West & South) - A201	3 February 2023	No Author
Elevations (East & Street) - A202	3 February 2023	No Author
Elevation (North) - A203	3 February 2023	No Author
Section A - A301	3 February 2023	No Author
Section C - A302	3 February 2023	No Author
Driveway Section - A303	3 February 2023	No Author

**Reports / Documentation – All recommendations and requirements contained within:**

Report No. / Page No. / Section No.	Dated	Prepared By
BASIX Certificate (No.1361059S)	7 December 2022	Integreco Consulting Pty Ltd
Estuarine Report	8 September 2022	Horton Coastal Engineering
Geotechnical Report	7 September 2022	White Geotechnical Report
NatHERS Certificate (No.0008276917-02)	7 December 2022	Integreco Consulting Pty Ltd

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	Dated	Prepared By
Landscape Plan, Planting Plan and Plant Schedule, Issue A	3 February 2023	Sym Studio

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

**B. Add Condition 1B - Compliance with Other Department, Authority or Service Requirements to read as follows:**

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Aboriginal Heritage Office	Referral - Aboriginal Heritage Office - 1772 Pittwater Road Bayview	6 October 2022

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website [www.northernbeaches.nsw.gov.au](http://www.northernbeaches.nsw.gov.au))

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

**C. Add Condition 1C - No Approval for Boat Shed to read as follows:**

No approval is granted or implied under this Modification Application for construction of a boat shed as annotated by purple clouding on the approved plans.

A separate approval is required for the works clouded in purple relating to the Construction of a Boat Shed.

Reason: To ensure compliance with the terms of this consent.

**D. Add Condition 7A - Privacy Screen to read as follows:**

A privacy screen is to be erected for the entire length of the outermost northern edge of Windows W11 and W12a located off the living room as shown on the approved plans. The privacy screen shall be of fixed panels or louver style construction (with a maximum spacing of 20mm), in materials that

complement the design of the approved development.

Details demonstrating compliance are to be submitted to the Certifier prior to the issue of the Construction Certificate.

Reason: In order to maintain privacy to the adjoining / nearby property.

**E. Modify Condition 19 - Estuarine Planning Level Requirements to read as follows:**

An Estuarine Planning Level (EPL) of 3.30m AHD has been adopted for the subject site and shall be applied to all modifications proposed below this level as follows:

- All electrical equipment, wiring, fuel lines or any other service pipes and connections must be located either above 3.30m AHD or waterproofed to this level; and
- The storage of toxic or potentially polluting goods, chemicals or materials, which may be hazardous or pollute the waterway, is not permitted below 3.30m AHD.
- All interior power supplies (including electrical fittings, outlets and switches) must be located at or above 3.30m AHD. All exterior power supplies (including electrical fittings, outlets and switches) shall be located at or above 3.30m AHD to avoid the likelihood of contact with splashing waves and spray.

Reason: To ensure aspect of the development are built at the appropriate level

**F. Modify Condition 20 - Compliance with Estuarine Risk Management Report to read as follows:**

The development is to comply with all recommendations of the approved Estuarine Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd dated 20 December 2019 and the Updated Estuarine Risk Management Report also prepared by Horton Coastal Engineering Pty. Ltd dated 8 September 2022 and these recommendations are to be incorporated into construction plans.

Reason: To minimise potential hazards associated with development in an estuarine habitat.

**G. Modify Condition 27 - Installation and Maintenance of Sediment and Erosion Controls to read as follows:**

Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

**H. Add Condition 28A - Wildlife Protection to read as follows:**

If construction activity associated with this development results in injury or displacement of a native mammal, bird, reptile or amphibian, a registered wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

**I. Modify Condition 34 - Project Arborist to read as follows:**

A Project Arborist with AQF minimum Level 5 qualification in arboriculture/horticulture is to be appointed to supervise and certify tree protection measures for the existing street tree identified as T2 to be retained and protected, requiring site attendance during excavation and construction works of any works within the tree protection zone of T2, in accordance with AS4970- 2009 Protection of Trees on Development Sites, with particular reference to Section 4, and the recommendations of the Arboricultural Impact Assessment prepared by Urban Forestry Australia dated November 2019.

This shall include supervision, acceptance of the works and certification of tree sensitive work in the vicinity of the existing street tree identified as T2, under Section 5.0 Recommendations,

- i) actions and recommendations as listed under 5.2 Minimising Impacts on Trees to be Retained,
- ii) actions and recommendations as listed under 5.3 Tree Protection,

The Arborist shall submit certification that the works described in the above sections have been correctly installed and adhered to during the construction period.

The tree protection measures specified in this clause must:

- iii) be in place before work commences on the site, and
- iv) be maintained in good condition during the construction period, and
- v) remain in place for the duration of the construction works.

The Certifier or a Project Arborist AQF Level 5 must ensure that:

- vi) the activities listed in section 4.2 of AS4970- 2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and
- vii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

A separate permit or development consent may be required if the branches or roots of a protected tree on the site or on an adjoining site are required to be pruned or removed.

Reason: to ensure tree protection is provided and maintained.

**J. Modify Condition 38 - Landscape Works Completion to read as follows:**

Landscape works are to be implemented in accordance with the approved Landscape Plans, with the addition of the following condition:

- i) proposed landscape works are approved only within the site boundaries,
- ii) one native tree in the front yard and one native tree in the rear yard planted at 75 litre container size minimum, selected from the Pittwater Spotted Gum Forest association, shall be provided to enhance the landscape setting and soften the built form,
- ii) all tree planting within the site shall be positioned in locations to minimise significant impacts on neighbours in terms of blocking winter sunlight, or where the proposed tree locations may otherwise be positioned to minimise any significant loss of views, and shall be planted at least 4-5 metres from buildings,

Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with the approved landscape plans and with any conditions of

consent.

Reason: to ensure that the landscape treatments are installed to provide landscape amenity and soften the built form.

## Important Information

This letter should therefore be read in conjunction with DA2020/0014 dated 11 May 2020.

Please note that on site works cannot proceed unless a Construction Certificate application for the modified proposal has been lodged with and approved by Council or an accredited certifier, and relevant conditions of the Development Application have been carried out.

## 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 28 days of this determination, to enable the assessment and determination of the application within the 6 month timeframe.

## Right of Appeal

Section 8.10 of the Environmental Planning and Assessment Act confers on an applicant who is not satisfied with the determination of the Consent Authority a right of appeal to the Land and Environment Court within 6 months of determination.

*NOTE: A fee will apply for any request to review the determination.*

**Signed** On behalf of the Consent Authority



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Name Stephanie Gelder, Planner

Date 09/02/2023