

10 October 2024

Anthony Joseph Gleeson  
C/- Vaughan Milligan Development Consulting Pty Ltd Po Box 49  
NEWPORT NSW 2106

Dear Sir/Madam

|                              |   |
|------------------------------|---|
| <b>Application Number:</b>   | <b>Mod2023/0473</b>   |
| <b>Address:</b>              | <b>Lot 171 DP 16212 , 8 Rickard Road, NORTH NARRABEEN NSW 2101<br/>Lot 173 DP 16212 , 4 Rickard Road, NORTH NARRABEEN NSW 2101<br/>Lot 172 DP 16212 , 6 Rickard Road, NORTH NARRABEEN NSW 2101<br/>Lot 174 DP 16212 , 2 Rickard Road, NORTH NARRABEEN NSW 2101</b>  |
| <b>Proposed Development:</b> | <b>Modification of Development Consent Land and Environment Court for N0267/16 granted by the Land and Environment Court for Demolition of all existing structures and the construction of a shoptop housing development, comprising 3 commercial units, 20 residential units and off-street parking.</b> |

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](http://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](mailto:council@northernbeaches.nsw.gov.au)

Regards,



Claire Ryan  
**Principal Planner**

## NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT

|  |  |
|--|--|
| <b>Application Number:</b>                   | Mod2023/0473<br>PAN-365986   |
| <b>Applicant:</b>                            | Anthony Joseph Gleeson<br>C/- Vaughan Milligan Development Consulting Pty Ltd Po Box 49<br>NEWPORT NSW 2106  |
| <b>Property:</b>                             | Lot 171 DP 16212<br>8 Rickard Road NORTH NARRABEEN NSW 2101<br>Lot 173 DP 16212<br>4 Rickard Road NORTH NARRABEEN NSW 2101<br>Lot 172 DP 16212<br>6 Rickard Road NORTH NARRABEEN NSW 2101<br>Lot 174 DP 16212<br>2 Rickard Road NORTH NARRABEEN NSW 2101   |
| <b>Description of Development:</b>           | Modification of Development Consent Land and Environment Court for N0267/16 granted by the Land and Environment Court for Demolition of all existing structures and the construction of a shoptop housing development, comprising 3 commercial units, 20 residential units and off-street parking. |
| <b>Determination:</b>                        | Approved<br>Consent Authority: Northern Beaches Council  |
| <b>Date of Determination:</b>                | 09/10/2024   |
| <b>Date from which the consent operates:</b> | 09/10/2024   |

Under Section 4.56 Court Consent of the EP&A Act, notice is given that the above application to modify the original application has been approved, subject to the conditions specified in this notice and as described in the Modification Summary.

### Reasons for approval

The development proposal meets the Objects of the Environmental Planning and Assessment Act 1979, contained in Section 1.3, having considered the relevant provisions under s.4.15 of the aforementioned Act. Consequently, the development is considered to be in the public interest, subject to conditions.

### Community views

The application was notified in accordance with Council's Community Participation Plan and the Environmental Planning and Assessment Regulation 2021. Any submissions received representing community views were considered as part of the assessment of the application. Conditions of consent included within this Notice of Determination have been applied to ensure that the development satisfies the Objects of the Environmental Planning and Assessment Act and will not result in unacceptable environmental impacts.

## 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 28 days 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** Claire Ryan, Principal Planner

**Date** 09/10/2024

## Modification Summary

The development consent is modified as follows:

### MODIFICATION SUMMARY TABLE

| Application Number         | Determination Date                       | Modification description   |
|----------------------------|--|--|
| PAN-365986<br>Mod2023/0476 | The date of this notice of determination | <p>Modifications to the development to expand certain units.</p> <p>Additional Conditions:</p> <ul style="list-style-type: none"> <li>• A1A</li> <li>• A1B</li> <li>• C22</li> <li>• C23</li> </ul> <p>Modified Conditions:</p> <ul style="list-style-type: none"> <li>• B36</li> <li>• B52</li> <li>• B54</li> <li>• C17</li> <li>• C18</li> <li>• E14</li> <li>• E15</li> <li>• E16</li> </ul> |

### Modified Conditions

**A. Add Condition A1A Modification of Consent - Approved Plans and Supporting Documentation, to read as follows:**

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

| Approved Plans |                 |                |              |              |
|----------------|-----------------|----------------|--------------|--------------|
| Plan Number    | Revision Number | Plan Title     | Drawn By     | Date of Plan |
| DA01           | S1              | Roof Plan      | Design Vines | 26 July 2023 |
| DA02           | S1              | Basement Floor | Design Vines | 26 July 2023 |
| DA03           | S1              | Ground Floor   | Design Vines | 26 July 2023 |
| DA04           | S1              | First Floor    | Design Vines | 26 July 2023 |
| DA05           | S1              | Second Floor   | Design Vines | 26 July 2023 |
| DA06           | S1              | Elevations     | Design Vines | 26 July 2023 |
| DA07           | S1              | Elevations     | Design Vines | 26 July 2023 |
| DA08           | S1              | Sections       | Design Vines | 26 July 2023 |

|      |   |  |                         |              |
|------|---|--|-------------------------|--------------|
| L-01 | D | Landscape Plan Ground Floor            | Space Landscape Designs | 24 July 2023 |
| L-02 | C | Landscape Plan First Floor Residential | Space Landscape Designs | 24 July 2023 |
| L-03 | A | Landscape Details and Specifications   | Space Landscape Designs | 24 July 2023 |

| Approved Reports and Documentation |                |                  |                  |
|------------------------------------|----------------|------------------|------------------|
| Document Title                     | Version Number | Prepared By      | Date of Document |
| BASIX Certificate 382273M_05       | -              | Efficient Living | 7 August 2023    |
| NatHERS Certificate 1365610        | -              | Efficient Living | 27 June 2023     |
| Flood Storage Certification        | B              | Hyve Designs     | 5 September 2024 |
|                                    |                |                  |                  |

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

**B. Add Condition A1B 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             |
|--|--|-------------------|
| Ausgrid                                | Ausgrid Referral Response - Underground Cables | 19 September 2023 |
|  | Ausgrid Referral Response - Overhead Cables    | 19 September 2023 |

(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. Modify Condition B36 to read as follows:**

The car wash bay is to be graded and are to drain to the sewerage system. The perimeter of the wash bay is to be suitably bunded to prevent stormwater entering the sewer.

**D. Modify Condition B52 to read as follows:**

A Section 88B instrument is to remain on the title to refer to the following flood-related features of the development that are required for the life of the development:

- a. flood storage tanks and associated pump system,
- b. flood warning system and
- c. flood doors (on all external doors set below 4.25 mAHD).

Reason: To maintain flood resilience.

**E. Modify Condition B54 to read as follows:**

The narrow windows on the northern façade associated with Bedroom 1 of Units 6 and 16, are to be fixed and are to comprise translucent glazing.

**F. Modify Condition C17 to read as follows:**

Prior to the issuance of any Construction Certificate, the architectural and landscape plans are to be amended, as follows:

- a. The stairs between the terrace garden on the first floor and the ground floor courtyard are to be deleted.
- b. The terrace garden along the northern and western boundaries at the first floor is to be non-trafficable (with the exception of access for maintenance) and is to be one continual area with no dividing walls or fences.
- c. Lineal planting arrangements within the first floor terrace garden should be avoided and plants are to be arranged and spaced so that at completion of works, they present as a grown completed landscape. Plant material should be arranged through pre-order plant contracts to achieve required advanced sizes.
- d. 9 x Magnolia grandiflora 'Teddy Bear', at minimum 45 litre container size, are to be installed on the first floor.
- e. Substitute the 2 x Dianella 'Cassa Blue' adjacent to the southern terrace of Unit 08 with 1 x Callistemon viminalis 'Slim'.

**G. Modify Condition C18 to read as follows:**

Prior to the issuance of any Construction Certificate, the architectural plans are to be amended, as follows:

- a. Deleted.
- b. The protruding terrace 'pods' on the Rickard Road and Minarto Lane facades, associated with the Living Room of Units 3 and 13 and Bedroom 1 of Units 1, 8, 11, and 18, are not to protrude more than 500mm from the associated façade.
- c. The cupboard/BIR in Bedroom 2 in Units 9 and 19 is to be relocated, so that the minimum dimensions of the rooms are 3m in both directions, excluding the depth of the cupboard/BIR.

**H. Add Condition C22 to read as follows:**

All internal driveways, vehicle turning areas, garages and vehicle parking space/ loading bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Off-street Parking standards).

With respect to this, the following revision(s) must be undertaken to the parking layout on the plans:

- 34 residential spaces that must be linemarked as 'resident only', including 2 spaces marked and signposted for disabled parking
- 5 residential visitor spaces that must be linemarked as 'residential visitor'
- 15 commercial visitor spaces that must be linemarked as 'commercial parking', including 1 space marked and signposted for disabled parking
- 1 car wash bay that must be linemarked as 'visitor/wash bay'
- 3 motorcycle spaces that must be linemarked as 'motorcycle only'
- 11 bicycle racks including pavement marking denoting 'bicycle parking'

All spaces to be marked and dimensioned in compliance with the requirements of AS/NZS 2890.

These amendment(s) must be clearly marked on the plans submitted to the Certifier prior to the issue of a Construction Certificate.

Reason: To ensure compliance with Australian Standards relating to manoeuvring, access and parking of vehicle.

**I. Add Condition C23 Amendments to the Approved Plans to read as follows:**

The following amendments are to be made to the approved plans:

- A privacy screen is to be erected along the northern elevation of the northern terraces of Units 8 and 18. Each screen is to extend from the north-western corner of the terrace to a width of 1.8 metres, and to a height of 1.8 metres above finished floor level.
- The western setback of the terrace of Unit 17 is to be increased to 6 metres from the western boundary.
- The "timber clad balcony structure" walls on the western elevation of the terraces of Units 4 and 14, and the eastern elevations of the terraces of Units 5 and 15 are to be semi-open, by way of a 20-millimetre gap between each timber slat, to ensure privacy of nearby residences, while allowing better internal solar amenity.

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

Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

**J. Modify Condition E14 to read as follows:**

Certification is to be provided by a licenced surveyor that the flood storage offset tanks have been constructed to provide the appropriate volume of flood storage (930 m3).

**K. Modify Condition E15 to read as follows:**

Certification is to be provided by a suitably qualified person that all of the flood-related features of the development have been installed and are fully operable in accordance with the Flood Emergency Response Plan as referenced in this consent and amended by this consent.

**L. Modify Condition E16 to read as follows:**

A Section 88B instrument is to be placed on the title to refer to the following flood-related features of the development that are required for the life of the development:

- a. flood storage tanks and associated pump system,
- b. flood warning system and
- c. flood doors (on all external doors set below 4.25 mAHD).

Reason: To maintain flood resilience.

## Important Information

This letter should therefore be read in conjunction with N0267/16 dated 28 April 2017.

## Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

**Approved plans and documents** means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

**AS** means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

**Building work** means any physical activity involved in the erection of a building.

**Certifier** means a council or a person that is registered to carry out certification work under the Building and Development Certifiers Act 2018.

**Construction certificate** means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

**Council** means Northern Beaches Council.

**Court** means the Land and Environment Court of NSW.

**EPA** means the NSW Environment Protection Authority.

**EP&A Act** means the Environmental Planning and Assessment Act 1979.

**EP&A Regulation** means the Environmental Planning and Assessment Regulation 2021.

**Independent Planning Commission** means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

**Local planning panel** means Northern Beaches Local Planning Panel.

**Occupation certificate** means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

**Principal certifier** means the certifier appointed as the principal certifier for building work or subdivision



work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

**Site work** means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

**Stormwater drainage system** means all works and facilities relating to: the collection of stormwater, the reuse of stormwater, the detention of stormwater, the controlled release of stormwater, and connections to easements and public stormwater systems.

**Strata certificate** means a certificate in the approved form issued under Part 4 of the Strata Schemes Development Act 2015 that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

**Subdivision certificate** means a certificate that authorises the registration of a plan of subdivision under Part 23 of the Conveyancing Act 1919.

**Subdivision works certificate** means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A Regulation.

**Sydney district or regional planning panel** means Sydney North Planning Panel.