

19 March 2024



Steve Gillespie
24 Angle Street
BALGOWLAH NSW 2093

Dear Sir/Madam

Application Number: DA2023/0617
Address: Lot 6 DP 9585 , 24 Angle Street, BALGOWLAH NSW 2093
Lot 7 DP 9585 , 22 Angle Street, BALGOWLAH NSW 2093
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,



Peter Robinson
Manager Development Assessments

NOTICE OF DETERMINATION

Application Number:	DA2023/0617
Determination Type:	Development Application

APPLICATION DETAILS

Applicant:	Steve Gillespie
Land to be developed (Address):	Lot 6 DP 9585 , 24 Angle Street BALGOWLAH NSW 2093 Lot 7 DP 9585 , 22 Angle Street BALGOWLAH NSW 2093
Proposed Development:	Demolition works and construction of a Residential Flat Building

DETERMINATION - REFUSED

Made on (Date)	06/03/2024
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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 State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development, including the design quality principles and criteria under the Apartment Design Guide.
2. 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 Manly Local Environmental Plan 2013.
3. 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 Manly Local Environmental Plan 2013. The proposed development is of excessive size, mass, bulk and scale, and is out of character with the area.

The proposal is supported by a written request to vary the floor space ratio development standard in accordance with Clause 4.6 of the MLEP 2013. The written request is not well-founded as it does not satisfactorily demonstrate:

- That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case because it does not achieve consistency with the objectives of the development standard contained within Clause 4.4 of the MLEP 2013, and
- That there are sufficient environmental planning grounds to justify contravening the development standard because the provided justification is insufficient and disagreed with.

The proposal is also supported by a written request to vary the height of buildings development standard in accordance with Clause 4.6 of the MLEP 2013. The written request is not well-founded as it does not satisfactorily demonstrate:

- That the proposal is consistent with the objectives of the development standard within Clause 4.3 of the MLEP 2013 and the Objects of the EPA, Act, 1979, and that there are sufficient environmental planning grounds to justify contravening the development standard.
4. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with Clause 1.7 Aims and Objectives of this Plan under the Manly Development Control Plan 2013.
 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 3.4.1 Sunlight Access and Overshadowing of the Manly Development Control Plan 2013, as it results in additional overshadowing to Unit 1, 72A West Street, Balgowlah and 20 Angle Street, Balgowlah.
 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 4.1.3 Floor Space Ratio (FSR) of the Manly Development Control Plan 2013. The proposed development is of excessive size, bulk and scale, and is out of character with the area, which is attributable to the substantial variation to the floor space ratio development standard.
 7. 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 4.1.4 Setbacks (front, side and rear) and Building Separation of the Manly Development Control Plan 2013. The proposed development does not comply with the front and rear setback controls, which results in unreasonable building bulk in the Angle Street and Sydney Road streetscapes including when viewed from the adjoining property to the rear (72 West Street). In addition there are significant negative interface and privacy impacts on neighbouring dwellings.
 8. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest, given the significant level of non-compliance with the floor space ratio development standard under the Manly Local Environmental Plan 2013, inconsistencies with SEPP 65 and the Apartment Design Guide, non-compliances with the built form controls under the Manly Development Control Plan 2013 and the extent to which the proposal is inconsistent with the existing and desired future character of the locality.

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

Peter Robinson, Manager Development Assessments

Date

06/03/2024