

20 April 2021



BBF Town Planners  
1 / 9 Narabang Way  
BELROSE NSW 2085

Dear Sir/Madam

**Application Number:** DA2020/1287  
**Address:** Lot 38 DP 20461 , 58 Forest Way, FRENCHS FOREST NSW 2086  
**Proposed Development:** Demolition works and construction of a Seniors Housing Development comprising 4 self care housing units with associated parking

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,



Lashta Haidari  
**Manager Development Assessments**

## NOTICE OF DETERMINATION

<b>Application Number:</b>	DA2020/1287
<b>Determination Type:</b>	Development Application

### APPLICATION DETAILS

<b>Applicant:</b>	BBF Town Planners
<b>Land to be developed (Address):</b>	Lot 38 DP 20461 , 58 Forest Way FRENCHS FOREST NSW 2086
<b>Proposed Development:</b>	Demolition works and construction of a Seniors Housing Development comprising 4 self care housing units with associated parking

### DETERMINATION - REFUSED

<b>Made on (Date)</b>	14/04/2021
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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 aims and requirements of SEPP (Housing for Seniors or People with a Disability) 2004.
  - Insufficient information has been submitted to satisfy Cl. 26 in relation to access.
  - The proposal is inconsistent with cl. 31 as it does not respond to context and fails to minimise impacts on the existing streetscape or enhance its desirable characteristics. The proposal will result in unreasonable impacts on neighbours and fails to provide safe and distinct pedestrian routes to all dwellings and facilities.
  - The proposal is inconsistent with cl. 33 as it fails to recognise the desirable elements of the location's current character or maintain reasonable neighbour amenity.
  - The proposal is inconsistent with cl. 34 as it fails to consider the visual and acoustic privacy of neighbours or the internal amenity of the proposed dwellings considering acoustic impacts from the adjoining road.
  - The proposal is inconsistent with cl. 35 in relation to solar access.
  - The proposal is inconsistent with cl. 40 in relation to the maximum building height of the building located in the rear 25% and a clause 4.6 variation has not been submitted.
  - The proposal is inconsistent with cl. 41 in relation to letterboxes.
  - The proposal is inconsistent with cl. 50 in relation to landscape area provision.
  
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with cl. 102 of the Infrastructure SEPP 2007 and Clause D3 (Noise) of the Warringah DCP 2011 as the development has not included an assessment of the impacts of noise and vibration from Forest Way on the amenity of the proposed residential development.

3. 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 Warringah Local Environmental Plan 2011.
4. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with objective 3 of Clause Zone R2 Low Density Residential of the Warringah Local Environmental Plan 2011 which requires low density residential environments to be characterised by landscaped settings that are in harmony with the natural environment of Warringah.
5. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 4.6 (Exceptions to development Standards) of the Warringah Local Environmental Plan 2011. The applicant has not submitted a Clause 4.6 variation for the breach in the height standard required under Part 4 Cl 40 of the SEPP (HSDP) which requires buildings located in the rear 25% of the site not to exceed 1 storey in height.
6. The proposal is inconsistent with the following overriding objectives of the WDCP which aim to
  - Create and maintain a high level of environmental quality throughout Warringah.
  - Ensure development responds to the characteristics of the site and the qualities of the surrounding neighbourhood;
  - Ensure new development is a good neighbour, creates a unified landscape, contributes to the street, reinforces the importance of pedestrian areas and creates an attractive design outcome;
  - Protect environmentally sensitive areas from overdevelopment or visually intrusive development so that scenic qualities, as well as the biological and ecological values of those areas, are maintained and
  - Achieve environmentally, economically and socially sustainable development for the community of Warringah.
7. The proposal is inconsistent with the requirements and objectives of the following Clauses of the Warringah DCP 2011:
  - Clause C2 (Traffic, Access and Safety) and Clause C3 (Parking Facilities). The proposal raises issues with respect of the following:
    - Insufficient maneuvering area is available on-site to allow forward entry and exit to and from the public road for all units. As such, the proposal does not minimise traffic hazards and vehicles queuing on public roads.
    - The retention of the retaining wall located within the road reserve presents issues with regard to the safe line of sight from any egress from the development across the road reserve. The proposal does not minimise traffic, pedestrian and cyclist conflict.
    - The car parking should be provided partially or fully underground.
  - Clause C9 (Waste Management) and Clause D14 (Site Facilities) which seek to ensure that the design and location of waste storage and collection facilities are convenient and easily accessible; safe; hygienic; of an adequate size, and with minimal adverse impacts on residents, surrounding neighbours, and pedestrian and vehicle movements. The

proposed bin storage does not meet the requirements of the waste management guidelines and the letterboxes are accessed from inside the bin storage room which is not a logical placement for access to this facility.

- The proposal will result in unreasonable impacts on neighbouring amenity and insufficient amenity for the occupants of the proposed dwellings. As such, the proposal is inconsistent with:
  - Clause D6 (Access to Sunlight) of the Warringah DCP 2011. The proposed dwellings will not receive compliant solar access to the areas of private open space and will result in unreasonable impacts on neighbouring amenity.
  - The proposal is inconsistent with Clause D8 (Privacy) of the Warringah DCP 2011. The upper floor windows are sited within 3.9m of the northern boundary and 5m from southern boundary and will overlook neighbouring properties.
- The proposal is inconsistent with requirements and objectives of Clause D9 (Building Bulk) of the Warringah DCP 2011. The bulk, scale, massing and height (of the rear pavilion) will have unreasonable visual impacts when viewed from adjoining properties.
- The proposal is inconsistent with requirements and objectives of Clause D13 (Front Fences and Walls) of the Warringah DCP 2011. The retention of the retaining wall to Forest Way combined with the removal of the existing mature landscaping will present a "wall in" streetscape which is not compatible with the existing streetscape character while creating visual interest in the public domain.
- The proposal is inconsistent with requirements and objectives of Clause E1 (Preservation of Trees or Bushland Vegetation) and Clause E6 (Retaining unique environmental features) of the Warringah DCP 2011. The removal of the trees will substantially reduce the tree canopy and negatively impact on the landscaped character of the site. The mature native significant trees are a distinctive environmental feature of the site and adjoining area. The proposal does not respond to these features through the location of the development.
- The proposal is inconsistent with requirements and objectives of Clause D1 (Landscape Open Space) which seeks consent for a 26% variation of the control which requires 50% of the site to be retained as landscaped open space. Insufficient landscape open space will be retained with dimensions along the side boundaries that will not enable the establishment planting of trees of a size and density to mitigate the height, bulk and scale of the building.

8. Pursuant to Section 4.15 (1) (e) of the Environmental Planning and Assessment Act 1979 the proposal is not in the public interest.

## 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 should be submitted to Council within 3 months of this determination, to enable the assessment and determination of the application within the 6 month timeframe.

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

## Right of Appeal

If you are dissatisfied with this decision Division 8.3 of the Environmental Planning & Assessment Act 1979 may give you the right to appeal to the Land and Environment Court within 6 months after the date on which you receive this notice.

**Signed**            On behalf of the Consent Authority



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Name                Lashta Haidari, Manager Development Assessments

Date                 14/04/2021