

17 June 2024



Sean Clive Gartner
C/- Sean Gartner Po Box 1122
MONA VALE NSW 1660

Dear Sir/Madam

Application Number: Mod2024/0104
Address: Lot 4B DP 361236 , 18 The Serpentine, BILGOLA BEACH NSW 2107
Lot 4A DP 361236 , 20 The Serpentine, BILGOLA BEACH NSW 2107
Lot 5 DP 13497 , 20 The Serpentine, BILGOLA BEACH NSW 2107
Proposed Development: Modification of Development Consent DA2023/0374 granted for Construction of a studio and car parking structure

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,



Dean Pattalis
Planner

NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT

Application Number:	Mod2024/0104 PAN-417612
Applicant:	Sean Clive Gartner C/- Sean Gartner Po Box 1122 MONA VALE NSW 1660
Property:	Lot 4B DP 361236 18 The Serpentine BILGOLA BEACH NSW 2107 Lot 4A DP 361236 20 The Serpentine BILGOLA BEACH NSW 2107 Lot 5 DP 13497 20 The Serpentine BILGOLA BEACH NSW 2107
Description of Development:	Modification of Development Consent DA2023/0374 granted for Construction of a studio and car parking structure
Determination:	Approved Consent Authority: Northern Beaches Council
Date of Determination:	17/06/2024
Date from which the consent operates:	17/06/2024

Under Section 4.55 (2) Environmental Impact 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 Dean Pattalis, Planner

Date 17/06/2024

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN# - PAN-417612 MOD# - Mod2024/0104	The date of this notice of determination	<p>Modification of Development Consent DA2023/0374 granted for Construction of a studio and car parking structure</p> <p>Add Condition No.1A - Modification of Consent - Approved Plans and supporting documentation Add Condition No.6A - Fencing Height / Vegetation Add Condition No.8A - Construction, Excavation and Associated Works Security Bond(s) Add Condition - No.27A - Submission Roads Act Application for Civil Works in the Public Road Add Condition No.27B - Pre-Commencement Dilapidation Report Add Condition No.27C - Shoring of Council's Road Reserve (Temporary road anchors) Add Condition No.27D - Stormwater Disposal from Low Level Property Add Condition No.27E - Car Parking Standards Add Condition No.27F - Car Parking Finishes Add Condition No.33A - Work Zones and Permits Add Condition No.53A - Post-Construction Dilapidation Report Add Condition No.53B - Certification of Off Street Parking Works Modify Condition No.9 - Tree Protection Plan Modify Condition No.17 - Construction Traffic Management Plan Modify Condition No.28 - Project Arborist Modify Condition No.29 - Tree Removal Within the Property Modify Condition No.30 - Tree Removal Within the Road Reserve Modify Condition No.56 - Landscaping adjoining vehicular access Delete Condition No.12 - Stormwater Disposal Delete Condition No.13 - Vehicle Crossings Application Delete Condition No.44 - Vehicle Crossings</p>

Modified conditions

A. Add Condition No.1A - 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
A.01	E	Site Plan	Gartner Trovato	21 May 2024
A.02	E	Floor Plans + Section	Gartner Trovato	21 May 2024
A.03	E	NW+SW Elevation	Gartner Trovato	21 May 2024
A.04	E	NE+SE Elevation	Gartner Trovato	21 May 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
Stormwater Management (SW1)	S4.55	Barrenjoey Consulting Engineers	21 February 2024
Arboricultural Impact Assessment	-	Treeism	May 2024
Parking Design Statement	-	PDC	24 May 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 No.6A - Fencing Height / Vegetation to read as follows:

All fencing and/or vegetation along the frontage road(s) shall not impede pedestrian or driver visibility. This requires that vegetation does not exceed one (1) metre in height. Appropriate plants shall be selected within the 2.0 x 2.5m splay to ensure this condition is met.

Reason: To ensure maximum vehicular and pedestrian visibility.

C. Add Condition No.8A - Construction, Excavation and Associated Works Security Bond(s) to read as follows:

The applicant is to lodge a bond with Council for the following:

Crossing / Kerb & Gutter / Footpath Works

As security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter, any footpath works and removal of any redundant driveways required as part of this consent a bond of \$10,000.00.

Security Bond

As security against damage to Council's roads fronting the site caused by the transport and disposal of materials and equipment to and from the site a bond of \$10,000.00.

Details confirming payment of the bond(s) are to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

Reason: Protection of Council's infrastructure.

D. Add Condition - No.27A - Submission Roads Act Application for Civil Works in the Public Road to read as follows:

The Applicant is to submit an application for approval for infrastructure works on Council's roadway. Engineering plans for the new development works within the road reserve and this development consent are to be submitted to Council for approval under the provisions of Sections 138 and 139 of the Roads Act 1993.

The application is to include Civil Engineering plans for the design of vehicle crossing which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plans shall be prepared by a qualified Civil Engineer. The design must include the following information:

1. Longitudinal section of proposed vehicle crossing.
2. Structural design of vehicle crossing, including all geotechnical recommendations.
3. The width of the crossing shall not exceed 6.0 metres.
4. All other relevant information to produce a FOR CONSTRUCTION standard drawing.

The fee associated with the assessment and approval of the application is to be in accordance with Council's Fee and Charges.

An approval is to be submitted to the Principal Certifier prior to the issue of the Construction Certificate

Reason: To ensure engineering works are constructed in accordance with relevant standards and Council's specification.

E. Add Condition No.27B - Pre-Commencement Dilapidation Report to read as follows:

The applicant must prepare and submit a dilapidation report providing an accurate record of the existing condition of adjoining public property and public infrastructure (including roads, gutter, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of adjoining and affected private properties.

The dilapidation report must be submitted to Council for written approval and the written approval is then to be submitted to the Certifier prior to the issue of the any Construction Certificate and the commencement of any works including demolition.

Reason: Protection of Council's infrastructure during construction.

F. Add Condition No.27C - Shoring of Council's Road Reserve (Temporary road anchors) to read as follows:

Should the proposal require shoring to support an adjoining property or Council land, the Applicant shall provide the adjoining properties with engineering drawings, detailing the proposed shoring works

for their consideration and approval.

Written approval from Council under Section 138 of the Roads Act 1993 is required if temporary ground anchors are to be used within Council's road reserve. The Owner's approval is to be submitted to the Principal Certifier prior to the issue of the Construction Certificate.

Reason: To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land.

G. Add Condition No.27D - Stormwater Disposal from Low Level Property to read as follows:

The applicant is to demonstrate how stormwater from the new development within this consent shall be disposed of to an existing approved system or in accordance with Northern Beaches Council's Water Management for Development Policy in particular Section 5.5 Stormwater Drainage from Low Level Properties. Details demonstrating that the existing approved system can accommodate the additional flows or compliance with Northern Beaches Council's policy by an appropriately qualified Civil Engineer are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from the development.

H. Add Condition No.27E - Car Parking Standards to read as follows:

The driveway/access ramp grades, access and car parking facilities must comply with the Australian/New Zealand Standard AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. The dimensions of carport/ double garage are to comply with Australian/New Zealand Standard for Off-Street Parking AS/NZS 2890.1-2004.

Details demonstrating compliance with this condition are to be submitted to the Principal Certifier prior to the issue of a construction certificate.

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

I. Add Condition No.27F - Car Parking Finishes to read as follows:

All driveways and car parking areas are to be surfaced and sealed. Details of treatment to these areas are to be submitted to the Principal Certifier prior to issue of the Construction Certificate.

Reason: To provide suitable stormwater disposal and to prevent soil erosion and runoff.

J. Add Condition No.33A - Work Zones and Permits to read as follows:

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane

Reason: To ensure Work zones are monitored and installed correctly.

K. Add Condition No.53A - Post-Construction Dilapidation Report to read as follows:

The applicant must bear the cost of all restoration works to Council's road, footpath and drainage assets damaged during the course of this development.

A Post Construction Dilapidation Report after the completion of all building works is to demonstrate that there is no damage to Council infrastructure prior to the refund of any security deposits.

Reason: To ensure security against possible damage to Council property.

L. Add Condition No.53B - Certification of Off Street Parking Works to read as follows:

The Applicant shall submit a certificate from a suitably qualified person certifying that the parking facility was constructed in accordance within this development consent and the relevant provisions of Australian/New Zealand Standard AS/NZS 2890.1:2004 parking facilities - Off-street car parking, in particular Section 2.4.5 Physical Controls and Section 2.6 Design of Domestic Driveways.

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

Reason: Compliance with this consent.

M. Modify Condition No.9 - Tree Protection Plan to read as follows:

a) a Tree protection plan shall be submitted to the Certifier for approval prior to the issue of a Construction Certificate, demonstrating tree protection measures in accordance with AS4970-2009 Protection of trees on development sites, to protect the following trees:

- i) all trees within the road reserve including those in proximity to the development works (trees T7, T8, T17 and T18) proposed for retention as listed in the approved Arboricultural Impact Assessment dated May 2024,
- ii) all trees within the property in proximity to the development works (trees T1, T2, T5, T6, T13, and T14) proposed for retention as listed in the approved Arboricultural Impact Assessment dated May 2024.

b) the Tree Protection Plan shall be prepared by an Arborist with minimum AQF Level 5 in arboriculture, incorporating the following:

- i) location of all trees identified for retention, including extent of canopy,
- ii) access routes throughout the site for construction activity,
- iii) location of tree protection fencing / barriers,
- iv) root protection in the form of mulching or boards proposed within the tree protection zone,
- v) trunk and branch protection within the tree protection zone,
- vi) location of stockpile areas and materials storage,
- vii) other general tree protection measures.
- viii) all existing trees within the road reserve in the vicinity of the works shall be retained during all construction stages, and protected by tree protection fencing in accordance with Section 4 of AS4970-2009 Protection of trees on development sites, and no excavated material, building material storage, site facilities, nor landscape materials are to be located within the canopy dripline of trees within the road reserve.

Reason: Tree protection.

N. Modify Condition No.17 - Construction Traffic Management Plan to read as follows:

A Construction Traffic Management Plan (CTMP) and report shall be prepared by a Transport for NSW accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- Where access is required across private property not in the direct ownership of the proponent, such as a private road/driveway, community title road or right of way, the CTMP is to include:
 - Evidence of the legal right and terms to use the access route or provide owners consent from the owners/strata/community association.
 - Demonstrate that direct access from a public space/road is not viable for each stage of works.
 - An assessment to be carried out of the physical constraints of the Right of Carriageway to determine the maximum size of vehicle that may access the site via the Right of Carriageway during construction.
 - Unless owner/strata/community associations consent is obtained, vehicles are not to exceed 24 tonnes or 7.5 metres in length (an assessment must be undertaken that the surface is capable of supporting up to 24 tonnes, otherwise the weight limit should be reduced in the CTMP). If consent is obtained, a copy must be included in the CTMP.
 - No construction vehicles, materials or plant are to be located or parked in the private road/driveway, community title road or right of way.
 - How any disruption to other users of the private road/driveway, community title road or right of way will be minimised and all users kept informed of likely disruption where the access will be closed or blocked for any given time.
 - If trees are located within or overhang the access route, a tree protection plan prepared by an Arborist with minimum AQF Level 5 in arboriculture demonstrating how any trees within the Right of Carriageway will be protected from damage by construction vehicles. Should any tree protection measures be required on private land in accordance with AS4970-2009 Protection of trees on development sites, owner's consent must be obtained.
 - A Dilapidation report, including photographic surveys, of the private road/driveway/right of way must be included prior to any works commencing on the site. The report must detail the physical condition of the private road/driveway/right of way, and any other adjacent private property assets (including trees) or adjacent public property that may be adversely affected by vehicles servicing the development site to undertake works or activity during site works.
 - A requirement for Post-Construction Dilapidation Reports, including photos of any damage evident at the time of inspection, to be submitted after the completion of works and prior to the Occupation certificate. The report must:
 - Compare the post-construction report with the pre-construction report,
 - Clearly identify any recent damage or change to the private road/driveway/right of way and whether or not it is likely to be the result of the development works,

- Should any damage have occurred, identify remediation actions taken.
 - Be submitted to Council with the Occupation Certificate.
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- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
 - Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.
 - The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
 - Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
 - Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
 - The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
 - Specify that the public roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
 - The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent.
 - Proposed protection for Council and adjoining properties.
 - The location and operation of any on site crane.

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

A copy of the approved CTMP must be kept on-site at all times while work is being carried out.

The development is to be undertaken in accordance with the Construction Traffic Management Plan approved by Northern Beaches Council Traffic Team.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

O. Modify Condition No.28 - Project Arborist to read as follows:

A Project Arborist with minimum AQF Level 5 in arboriculture shall be engaged prior to any commencement of works on site to provide tree protection measures in accordance with AS4970-2009

Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment dated May 2024. The Project Arborist shall be in attendance and supervise all works as nominated in the approved Tree Protection Plan and any recommendation of the approved Arboricultural Impact Assessment, including: arboricultural works under sections 5.

All tree protection measures specified must: a) be in place before work commences on the site, and b) be maintained in good condition during the construction period, and c) remain in place for the duration of the construction works.

The Project Arborist shall provide certification to the Certifier that all tree protection measures under AS4970-2009 have been satisfied, and the recommendations listed for the protection of the existing tree(s) have been carried out satisfactorily to ensure no impact to the health of the tree(s). Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

Note: Any potential impact to trees as assessed by the Project Arborist will require redesign of any approved component to ensure existing trees upon the subject site and adjoining properties are preserved and shall be the subject of a modification application where applicable.

Reason: Tree protection.

P. Modify Condition No.29 - Tree Removal Within the Property to read as follows:

This consent approves the removal of existing trees on the subject site as identified in the approved Arboricultural Impact Assessment dated May 2024, approved Plans, or as listed below:

- a) trees T3 and T4,
- b) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Reason: To enable authorised development works.

Q. Modify Condition No.30 - Tree Removal Within the Road Reserve to read as follows:

This consent approves the removal of existing trees within the road reserve as identified in the approved Arboricultural Impact Assessment dated May 2024, or as listed below:

- a) trees T8, T9, T10, T11 and T16,
- b) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

Removal of the approved tree/s in the road reserve by the applicant shall only be undertaken by a Council approved tree contractor. Details of currently approved tree contractors can be obtained from Northern Beaches Council's Trees Services business unit prior to removal.

Minor crown-raise pruning of existing trees 17 and 18 shall be undertaken by the applicant and by a Council approved tree contractor.

Reason: Public liability.

R. Modify Condition No.56 - Landscaping adjoining vehicular access to read as follows:

The applicant must ensure that the planting chosen for any land immediately adjacent to the driveway and adjacent to any driveway intersections must not exceed a height of 1m

Reason: To maintain unobstructed sight distance for motorists.

S. Delete Condition No.12 - Stormwater Disposal
T. Delete Condition No.13 - Vehicle Crossings Application
U. Delete Condition No.44 - Vehicle Crossings

Important Information

This letter should therefore be read in conjunction with DA2023/0374 dated 27/11/2023.

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.