

24 November 2023



Belinda Patricia Pedersen , Lex Pedersen
C/- Mhdp 5 Surfview Road
MONA VALE NSW 2103

Dear Sir/Madam

Application Number: Mod2023/0488
Address: Lot 57 DP 6195 , 5 Surfview Road, MONA VALE NSW 2103
Proposed Development: Modification of Development Consent DA2019/1421 granted for Alterations and additions to an existing dwelling house

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,



Claire Ryan
Principal Planner

NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT

Application Number:	Mod2023/0488 PAN-368064
Applicant:	Belinda Patricia Pedersen C/- Mhdp 5 Surfview Road MONA VALE NSW 2103 Lex Pedersen C/- Mhdp 5 Surfview Road MONA VALE NSW 2103
Property:	Lot 57 DP 6195 5 Surfview Road MONA VALE NSW 2103
Description of Development:	Modification of Development Consent DA2019/1421 granted for Alterations and additions to an existing dwelling house
Determination:	Approved Consent Authority: Northern Beaches Council
Date of Determination:	24/11/2023
Date from which the consent operates:	24/11/2023

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 Claire Ryan, Principal Planner

Date 24/11/2023

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN-368064 Mod2023/0488	The date of this notice of determination	<p>Reconfiguration of approved elements and overall reduction in built form.</p> <p>Additional Conditions:</p> <ul style="list-style-type: none"> • Condition 1A Modification of Consent - Approved Plans and Supporting Documentation • Condition 13A Amendment of Landscape Plans • Condition 13B Coastal Design Considerations • Condition 13C Low Level Coastal Inundation Risk Design • Condition 15A Installation and Maintenance of Sediment and Erosion Control • Condition 22A Wildlife Protection • Condition 22B Coastal Erosion • Condition 22C No Access Through Land Owned or Managed by Council • Condition 22D Storage of Materials on Land Owned or Managed by Council Prohibited • Condition 22E Protection of Council's Public Assets • Condition 25A Replacement of Canopy Trees • Condition 25B No Weeds Imported On To The Site • Condition 25C Stormwater Disposal <p>Amended Conditions:</p> <ul style="list-style-type: none"> • Condition 10 Compliance with Coastal Risk Management Report • Condition 14 Tree Protection Measures • Condition 15 Tree Removal Within the Property • Condition 20 Tree and Vegetation Protection • Condition 21 Project Arborist Certification • Condition 23 Landscape Completion • Condition 27 Landscape Maintenance

Modified conditions

A. Add Condition 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
A001	C	Site Plan and Site Analysis	MHDP Architects	17 August 2023
A003	C	Driveway Plan	MHDP Architects	17 August 2023
A101	C	Lower Ground Floor Plan	MHDP Architects	17 August 2023
A102	C	Ground Floor Plan	MHDP Architects	17 August 2023
A103	C	First Floor Plan	MHDP Architects	17 August 2023
A104	C	Roof Plan	MHDP Architects	17 August 2023
A201	C	North & East Elevation	MHDP Architects	17 August 2023
A202	C	South & East Elevation	MHDP Architects	17 August 2023
A221	C	Sections	MHDP Architects	17 August 2023
A222	B	Pool Plan and Section	MHDP Architects	17 August 2023
SK10	C	Sediment, Erosion and Stormwater Management Plan	MHDP Architects	17 August 2023
A002	C	Landscape Concept Plan	MHDP Architects	17 August 2023

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
BASIX Certificate A477080_02	-	Mark Hurcum Design Practice	28 August 2023
Arboricultural Impact Assessment	-	Bluegum Tree Care and Consultancy	November 2022
Coastal Risk Management Advice	-	Horton Coastal Engineering	3 November 2023

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. Amend Condition 10 Compliance with Coastal Risk Management Report to read as follows:

The development is to comply with all recommendations of both the approved Coastal Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 20 November 2019 and Coastal Risk Management Advice prepared by Horton Coastal Engineering Pty. Ltd. dated 3 November 2023 and these recommendations are to be incorporated into construction plans and

specifications and maintained over the life of the development.

Reason: To ensure coastal risk is addressed appropriately

C. Add Condition 13A Amendment of Landscape Plans to read as follows:

The submitted Landscape Plan is to be amended in accordance with the following:

- Locally native species are to be consistent with the Lowlands section of the Native Planting Guide available on Council's website.

The Landscape Plan is to be amended by a qualified landscape architect and provided to the Principal Certifier prior to issue of the Construction Certificate.

Reason: To maintain and replace habitat on the site.

D. Add Condition 13B Coastal Design Considerations to read as follows:

Proposed development shall be designed and constructed in accordance with the recommendations given in both the approved Coastal Risk Management Report prepared by Horton Coastal Engineering Pty. Ltd. dated 20 November 2019 and Coastal Risk Management Advice prepared by Horton Coastal Engineering Pty. Ltd. dated 3 November 2023 and in addition to building loads (including wind loads) shall include consideration of scour, wave forces, soil slumping forces and debris forces and shall be consistent with the coastal engineering advice contained in "Guidelines for Siting and Design of Residential Foundations (Advisian, 2018)".

Reason: To ensure coastal engineering advice is included in the design of foundations for erosion affected coastal properties.

E. Add Condition 13C Low Level Coastal Inundation Risk Design to read as follows:

All development must be designed and constructed to achieve a low risk of damage and instability due to coastal inundation, wave impact and foreshore erosion hazards.

Reason: Relevant coastal hazards to be accommodated in the design of affected development.

F. Amend Condition 14 Tree Protection Measures to read as follows:

a) A qualified AQF Level 5 Project Arborist shall be engaged prior to the commencement of works to supervise and approve tree protection measures in accordance with the Arboricultural Impact Assessment prepared by BlueGum Tree Care and Consultancy dated November 2022, and any other condition of consent as follows:

- i) ensure that the new retaining wall along the driveway is located in position as illustrated in Figure B under section 4.2, and Figure D under section 5.2 of the Arboricultural Impact Assessment,
- ii) the Project Arborist shall be present during all excavation within a 14.4m radius of Tree 1 - Norfolk Island Pine, and all recommendations under section 6.2 of the Arboricultural Impact Assessment are approved by the Project Arborist,
- iii) confirmation that no excavation or driveway widening near T1 - Norfolk Island Pine will occur,
- iv) tree protection fencing is installed under the direction of the Project Arborist to T1 - Norfolk Island Pine, in accordance with Figure E under section 6 of the Arboricultural Impact Assessment.

b) Additionally, during the works the Project Arborist shall provide the Certifier with certification that the above requirements have been completed to the satisfaction of the Project Arborist. An inspection program shall be developed by the Project Arborist and submitted to the Certifier prior to commencement of works. Photographic documentation of the condition of all trees to be retained shall be recorded, including at commencement, during the works and at completion.

c) All tree protection measures specified must:

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

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.

G. Amend Condition 15 Tree Removal Within the Property to read as follows:

a) This consent approves the removal of existing trees on the subject site as listed below:

i) tree 2 - Rhododendron sp. (if required), tree 3 - Melaleuca quinquenervia, and tree 4 - Afrocarpus falcatus.

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.

H. Add Condition 15A Installation and Maintenance of Sediment and Erosion Control to read as follows:

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004). Techniques used for erosion and sediment control on site 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 the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site

I. Amend Condition 20 Tree and Vegetation Protection to read as follows:

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees within the site not approved for removal, including trees and vegetation nominated for retention on the approved Plans,
- ii) all trees and vegetation located on adjoining properties,
- iii) all trees and vegetation within the road reserve.

b) Tree protection shall be undertaken as follows:

- i) tree protection shall be in accordance with AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment,
- ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,

- iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture,
- iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,
- v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture on site,
- vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,
- vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist/Project Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist/Project Arborist to the Principal Certifier,
- viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of AS 4970-2009 Protection of trees on development sites,
- ix) the activities listed in section 4.2 of AS 4970-2009 Protection of trees on development sites, shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,
- x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with AS 4373-2007 Pruning of amenity trees,
- xi) the tree protection measures specified in this clause must: be in place before work commences on the site, be maintained in good condition during the construction period, and remain in place for the duration of the construction works.

c) The Principal Certifier must ensure that:

- i) If activated, the arboricultural works listed in a) and b) are undertaken and certified by an Arborist/Project Arborist as complaint to AS 4970-2009 Protection of trees on development sites, and any recommendations of an approved Arboricultural Impact Assessment.

Reason: Tree and vegetation protection.

J. Amend Condition 21 Project Arborist Certification to read as follows:

During the works, the Project Arborist shall attend site to supervise and approve the tree protection measures and development works as conditioned under Prior to Commencement - Tree Protection Measures.

The Project Arborist shall document all the associated works including site instructions, recommendations during the works, and photographic evidence to report acceptance of works. The Project Arborist shall issue to the Certifying Authority the following certification:

- acceptance of the retaining wall location along the driveway in accordance with Figure B under section 4.2, and Figure D under section 5.2 of the Arboricultural Impact Assessment,
- record of attendance during all excavation within a 14.4m radius of Tree 1 - Norfolk Island Pine,
- confirmation that no excavation or driveway widening near T1 - Norfolk Island Pine has occurred,
- acceptance of tree protection fencing to T1 - Norfolk Island Pine, in accordance with Figure E under section 6 of the Arboricultural Impact Assessment.

Reason: ensure the correction procedures are in place to retain existing trees required for retention.

K. Add Condition 22A 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 licensed wildlife rescue and rehabilitation organisation must be contacted for advice.

Reason: To protect native wildlife.

L. Add Condition 22B Coastal Erosion to read as follows:

This property is on land located in an area where there is likely to be a risk of coastal erosion and wave impact during severe storms. The risk to the property may increase with time due to long-term beach recession caused by greenhouse induced sea level rise or natural coastal processes. To reduce the potential impact to your property, the Council strongly recommends that effective precautions be taken to ensure adequate volumes of sand are maintained within the eastern (seaward) boundary of your property. The Council requires that only free-draining, clean, yellow sand be used to fill allotments.

Reason: Protection of coastal environment.

M. Add Condition 22C No Access Through Land Owned or Managed by Council to read as follows:

Site access is not approved for delivery of materials nor construction of the development through adjacent land owned or managed by Council, without the written approval of Council.

Reason: Public safety, landscape amenity and tree protection.

N. Add Condition 22D Storage of Materials on Land Owned or Managed by Council Prohibited to read as follows:

The dumping or storage of building materials, spoil, vegetation, green waste or any other material in land owned or managed by Council is prohibited.

Reason: Public safety and environmental protection.

O. Add Condition 22E Protection of Council's Public Assets to read as follows:

Any damage to Council's public assets shall be made good by the applicant, and/or the contractor, to the satisfaction of Council.

Council's public assets include, but is not limited to, the following: road, kerb and gutters, crossovers, crossings, paths, grass verge, open space and associated elements such as furniture, recreational facilities and the like, within the meaning of the Local Government Act 1993.

Existing trees shall be protected in accordance with AS4970-2009 Protection of Trees on Development Sites, with particular reference to Section 4, with no ground intrusion into the tree protection zone and no trunk, branch nor canopy disturbance.

Reason: To protect and/or restore any damaged public asset.

P. Amend Condition 23 Landscape Completion to read as follows:

a) Landscaping is to be implemented in accordance with the following conditions:

- i) landscape works are to be contained within the legal property boundaries,
- ii) at minimum one replacement native canopy tree shall be planted within the front yard of the site, planted at 200 litre pot size,
- iii) all tree planting 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 and pools, and other trees,
- iv) the remaining landscape area of the front yard shall include shrub planting capable of attaining at least 2 metres at maturity, installed at a minimum 300mm pot size, planted no more than 1 metre apart, and groundcover planting installed at a minimum 140mm pot size, planted no more than 0.5 metre apart,
- v) garden areas to side boundaries shall include shrub planting capable of attaining at least 2 metres at maturity, installed at a minimum 300mm pot size, planted no more than 1 metre apart.

Prior to the issue of an Occupation Certificate, a landscape report prepared by a landscape architect or landscape designer shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with the conditions of consent.

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

Q. Add Condition 25A Replacement of Canopy Trees to read as follows:

At least 1 *Melaleuca quinquenervia* is to be planted on the site to replace protected trees approved for removal. Species are to have a minimum mature height of 8.5m and be consistent with the Native Planting Guide available on Council's website.

Tree plantings are to be retained for the life of the development and/or for their safe natural life. Trees that die or are removed must be replaced with another locally native canopy tree.

Replacement plantings are to be certified as being completed in accordance with these conditions of consent by a qualified landscape architect, and details submitted to the Principal Certifier prior to issue of any Occupation Certificate.

Reason: To establish appropriate native landscaping.

R. Add Condition 25B No Weeds Imported On To The Site to read as follows:

No Priority or environmental weeds (as specified in the Northern Beaches Local Weed Management Plan) are to be imported on to the site prior to or during construction works.

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

Reason: To reduce the risk of site works contributing to spread of Priority and environmental weeds.

S. Add Condition 25C Stormwater Disposal to read as follows:

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate.

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

T. Amend Condition 27 Landscape Maintenance to read as follows:

Any existing landscaping including trees required to be retained together with any additional landscaping required by this consent is to be maintained for the life of the development.

A 12 month establishment period shall apply for all new landscaping. If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. All tree and vegetation planting must be maintained for the life of the development, or for their safe useful life expectancy. Planting that may die or is approved for removal must be replaced.

The approved landscape planted areas, whether containing lawn, gardens or planters shall in perpetuity remain as planting under the development consent, and shall not be replaced with any hard paved surfaces or structures.

Reason: To maintain local environmental amenity and ensure landscaping continues to soften the built form.

Important Information

This letter should therefore be read in conjunction with DA2019/1421 dated 26 March 2020.

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.