

21 June 2021



Benson McCormack Architects Pty Ltd
Studio 5 505 Balmain Road
LILYFIELD NSW 2040

Dear Sir/Madam

Application Number: DA2020/1597
Address: Lot 25 DP 7002 , 67 Pacific Parade, DEE WHY NSW 2099
Proposed Development: Demolition works and construction of a boarding house development

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

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

Regards,



Lashta Haidari
Manager Development Assessments

NOTICE OF DETERMINATION

Application Number:	DA2020/1597
Determination Type:	Development Application

APPLICATION DETAILS

Applicant:	Benson McCormack Architects Pty Ltd
Land to be developed (Address):	Lot 25 DP 7002 , 67 Pacific Parade DEE WHY NSW 2099
Proposed Development:	Demolition works and construction of a boarding house development

DETERMINATION - REFUSED

Made on (Date)	16/06/2021
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Reasons for Refusal:

- 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 (Affordable Rental Housing) (ARH) 2009, in terms of the following:
 - Insufficient information has been submitted to satisfy Clause 29(c) which required a minimum solar access to the common living room.
 - Insufficient information has been submitted to satisfy Clause 29(d) which requires at least 20sqm of private open space to be used by lodgers. Insufficient information has been submitted to confirm that the common open space at roof level will be available to all lodgers as required under the SEPP (ARH).
 - The proposal is inconsistent with Clause 29(e)(iia) which required a total of fourteen (14) car parking spaces. Thirteen (13) car parking spaces have been provided, twelve (12) of which rely on car stackers.
 - The proposal is inconsistent with Clause 30A (Character of the local area) as the development does not provide sufficient side set backs or articulated facades.
- 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.
- Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the following objectives of Zone R3 Medium Density Residential of the Warringah Local Environmental Plan 2011. Objective 4 which requires low density residential environments to be characterised by landscaped settings that are in harmony with the natural environment of Warringah. Objective 5 which requires medium density

residential environments are of a high visual quality in their presentation to public streets and spaces.

4. Pursuant to Clause 6.2 (3) (Earthworks) and Clause 6.4 (Development on sloping land) of the Warringah LEP the consent authority cannot grant development consent for the earthworks as insufficient information has been submitted to confirm that the earthworks will not impact on adjoining properties, drainage patterns and soil stability.

In addition, the proposal is inconsistent with Clause E22 Landslip Risk of the WDCP as insufficient information has been provided to ensure the development is geotechnical stable and will not impact on subsurface water flow and stormwater discharge.

5. 5. The proposed development is inconsistent with the objectives at cl.A.5 (Objectives) of WDCP as it does not:

- a) Respond to the characteristics of the site and the qualities of the surrounding neighbourhood, or
- b) Create a unified landscape, contribute to the street and create an attractive design outcome.

6. The proposal represents over development and is inconsistent with the requirements and objectives of the following Clauses of the Warringah DCP 2011:

a) **Clause B3 Side Boundary Envelope.** Due to insufficient side setbacks the proposal breaches the side building envelope and is visually dominant by virtue of bulk and scale which is out of character with the area.

b) **Clause B5 Side Boundary Setbacks.** The development is set back 2m from the east and west side boundaries which reduces opportunities for deep soil landscape areas to the side that would allow for planting to reduce the bulk and scale of the development and provide for external amenity for future residents. Due to insufficient side setbacks the proposal will result in unreasonable level of amenity to future residents in terms of privacy and solar access.

c) **Clause C3 Parking Facilities** The proposal does not meet the numerical car parking requirements specified in the SEPP (ARH). Insufficient information has been submitted to address issues in relation to the operation and management of the car stackers.

d) **Clause D1 Landscaped Open Space and Bushland Setting.** The proposal fails to provide space on site to enable sufficient planting to mitigate the bulk and scale of the building along the side boundaries. There is no outdoor recreational opportunities provided at ground level. The development relies on the roof top common open space, however, access to the space will be restricted and not available to all residents. The amenity for the future residents in terms of access to open space is therefore assessed as inadequate.

e) **Clause D3 Noise** The proposal has the potential to result in unreasonable acoustic impacts to surrounding neighbours. Insufficient information in the form of a revised Acoustic Report and Plan of Management have been submitted to assess impacts.

f) **Clause D6 Access to Sunlight.** The proposal will result in unreasonable impacts upon the amenity of the surrounding neighbours and poor amenity for future occupants in terms of access to sunlight.

g) **Clause D8 Privacy.** The siting of the development will have unreasonable impacts on the visual and acoustic privacy for occupants and neighbours.

h) **Clause D9 Building Bulk.** The proposed development will result in overdevelopment due to its excessive bulk and scale and non-compliance with the built form controls including side setbacks, wall heights and side boundary envelope.

i) **Clause D22 Conservation of Energy and Water.** There is inadequate planning to address cross ventilation and solar access to the majority of rooms given that the side windows have obscure glazing and rooms in the centre of each block have only one window.

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



Name Lashta Haidari, Manager Development Assessments

Date 16/06/2021