



## NOTICE OF DETERMINATION

<b>Application Number:</b>	DA2017/1274
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### APPLICATION DETAILS

<b>Applicant Name and Address:</b>	Waterbrook Bayview Pty Ltd C/- Ethos Urban 173 Sussex Street, SYDNEY NSW 2000
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<b>Land to be developed (Address):</b>	Lot 150 DP 1003518 and Lot 191 DP 1039481 and Lot 300 DP 1139238 and Lot 1 DP 19161 and Lot A DP 339874 and Lot 1 DP 662920 and Lot 1, Lot 2 & Lot 3 DP 986894 52 Cabbage Tree Road and 1825 Pittwater Road BAYVIEW
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<b>Proposed Development:</b>	Construction of Seniors Housing consisting of 95 units including golf course upgrades and infrastructure works
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### DETERMINATION – REFUSAL

<b>Consent Authority:</b>	Sydney North Planning Panel
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<b>Made on (Date):</b>	8 August 2018
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### Reasons for Refusal:

**1. State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and Associated Apartment Design Guide (ADG)**

The proposed development should not be approved in its current form as it fails the principles of SEPP 65 insofar as they apply to context and neighbourhood character, built form, scale, density, landscaping, amenity, and aesthetics:

### Particulars:

- a) The proposed building is not compatible with the context of the site that currently contemplates buildings of a scale significantly less than that proposed.



- b) The development does not provide sufficient landscape area within the boundaries of the site (boundaries as identified within the Site Compatibility Certificate) commensurate with the bulk and scale of the proposed built form.
- c) The proposal is inconsistent with a number of the requirements as contained in the ADG referenced in SEPP 65

## **2. State Environmental Planning Policy (Housing for seniors or People with a Disability) 2004 (SEPP HSPD 2004)**

The proposed development is unsatisfactory in respect to Section 4.15 of the EPA Act, as the application is found to be inconsistent with the provisions of SEPP (HSPD) 2004.

### **Particulars:**

- a) The permissibility of the proposal under the Site Compatibility Certificate (SCC) and SEPP (HSPD) 2004 is not fully resolved.
- b) The requirements imposed on determination of the proposal under the SCC are not appropriately resolved.
- c) The works (including construction and Asset protection zone) associated with the proposed development will occur outside the "land" approved for seniors housing under the SCC. Construction related works will occur within the Environmentally Sensitive portion of the site (being defined as natural hazard within Schedule 1), therefore the SEPP is not applicable to the proposed development.
- d) The proposed development is inconsistent with Aims of Policy (namely Clause 2c) and the requirement of Clause 24 in relation to design and compatibility.
- e) The typology, scale, bulk and height of the proposal is not compatible with the existing and future character of the area and does not contribute to the quality and identity of the area as required by Clause 33 (a) of SEPP (HSPD) 2004.
- f) The proposed development does not comply with the requirement of Clause 50 with regards Density and scale and Landscape Area.

## **3. Building Height**

The proposed building height does not comply with clause 4.3 Height of Building development standard of the Pittwater Local Environmental Plan 2014 (PLEP 2014), and the contravention of the development standard is not justified under clause 4.6 of this instrument.



**Particulars:**

- a) The height of the proposed development is contrary to clause 4.6 and it is not consistent with the objectives of the development standard in Clause 4.3 of PLEP 2014 and therefore not in the public interest.
- b) The written request seeking to justify contravention of the development standard under clause 4.6 PLEP 2014 is not well founded and does not satisfy the matters in clause 4.6 (5) of the PLEP 2014.

**4. Pittwater Local Environmental Plan (PLEP 2014)**

The proposed development is unsatisfactory in respect to Section 4.15 (1) (a) (i) of the EPA Act, as the application is found to be inconsistent with the provisions of PLEP 2014.

**Particulars:**

- a) The development is inconsistent with the aims of the Plan, as it relates to its environmental impact and inconsistency with the desired character of Pittwater's localities
- b) The development is inconsistent with the objectives of the RE2 Private Recreation zone.
- c) The development fails to comply with the requirement of Clause 7.6 Biodiversity Protection

**5. Non-compliance with Pittwater 21 Development Control Plan (P 21 DCP)**

**Particulars:**

- a) The proposed development fails to comply with key environmental objectives of P21 DCP.
- b) The development is inconsistent with the Desired Character of A4.9 Mona Vale Locality;
- c) The proposed development fails to comply with the following clauses of P 21 DCP:
  - Clause B4.22 - Preservation of Trees and Bushland Vegetation
  - Clause B4.6 - Wildlife Corridors
  - Clause B5.1 - Water Management Plan
  - Clause B5.9 - Stormwater Management - Water Quality
  - Clause B5.10 - Stormwater Discharge into Public Drainage System
  - Clause C1.21 – Seniors Housing
  - Clause C5.1- Landscaping



- Clause D9.1 – Character as viewed from a public place
- Clause D9.2 – Scenic Protection

## 6. Public Interest

The proposal is not in the public interest

### Particulars

- a) The site is not considered to be suitable for the development given its location within an area which renders the development, as proposed, to be inconsistent with its desired character.
- b) The development is inconsistent with the scale and intensity of development that the community can reasonably expect to be provided on this site and within the respective localities.

## 7. Inadequate Information

The proposal is deficient in a number of respects with regard to the information submitted.

### Particulars

- a) Insufficient information provided to determine tree impacts, particularly as it relates to the Asset Protection Zone associated with the development.
- b) Owners consent has not been provided to Council from the Community Association DP270239 – Barkala Estate which is proposed to be used for access in an emergency situation as identified in the Bushfire Report.

## Right of Appeal

If you are dissatisfied with this decision Section 97 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

Signature  
Name

**Peter Robinson**  
Executive Manager, Development Assessment

Date

17.8.18

**NOTE:** Signed by Northern Beaches Council in accordance with the Environmental Planning and Assessment Act 1979 and EP&A Regulation 2000 as determined by the Sydney North Planning Panel on 8/8/18.