

12 November 2024



Bennett Murada
Suite 4.04 1 Chandos Street
ST LEONARDS NSW 2065

Dear Sir/Madam

Application Number: Mod2024/0422
Address: Lot 56 DP 7794 , 60 Hudson Parade, CLAREVILLE NSW 2107
Proposed Development: Modification of Development Consent DA2022/1715 granted for Alterations and additions to a dwelling house including a swimming pool

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,



Megan Surtees
Planner

NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT

Application Number:	Mod2024/0422 PAN-458413
Applicant:	Bennett Murada Suite 4.04 1 Chandos Street ST LEONARDS NSW 2065
Property:	Lot 56 DP 7794 60 Hudson Parade CLAREVILLE NSW 2107
Description of Development:	Modification of Development Consent DA2022/1715 granted for Alterations and additions to a dwelling house including a swimming pool
Determination:	Approved Consent Authority: Northern Beaches Council
Date of Determination:	12/11/2024
Date from which the consent operates:	12/11/2024

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

Megan Surtees, Planner

Date

12/11/2024

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

Application Number	Determination Date	Modification description
PAN - 458413 Mod2024/0422	The date of this notice of determination	Modification of Development Consent DA2022/1715 granted for Alterations and additions to a dwelling house including a swimming pool Add Condition No.1A - Modification of Consent - Approved Plans and supporting documentation Modify Condition 20. Amendments to the approved plans

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
DA_003	2	Site Plan	Bennett Murada Architects	2 October 2024
DA_004	1	Demolition Plans - Lower Ground + Ground	Bennett Murada Architects	29 July 2024
DA_005	2	Demolition Plans - Level 01 + Roof	Bennett Murada Architects	11 October 2024
DA_100	1	Proposed Lower Ground Floor Plan_OP2	Bennett Murada Architects	29 July 2024
DA_101	1	Proposed Ground Floor Plan	Bennett Murada Architects	29 July 2024
DA_102	1	Proposed First Floor Plan	Bennett Murada Architects	29 July 2024
DA_103	1	Proposed Roof Plan	Bennett Murada Architects	29 July 2024
DA_200	1	East + West Elevations	Bennett Murada Architects	29 July 2024
DA_201	1	North + South Elevations	Bennett Murada Architects	29 July 2024

DA_210	1	Longitudinal Section	Bennett Murada Architects	29 July 2024
DA_211	1	Cross Sections	Bennett Murada Architects	29 July 2024
DA_500	1	Schedules of Colours and Materials	Bennett Murada Architects	29 July 2024

Approved Reports and Documentation			
Document Title	Version Number	Prepared By	Date of Document
D02, D03, D04, D05, D06, D10, D30 - Site Stormwater Drainage Plan, Stormwater Drainage Plan, Stormwater Drainage Details and Sections Sheet 1, Sediment and Erosion Control Plan	D	NB Consulting Engineers	14 June 2024
BASIX Certificate 1421376s_04	-	Green Choice Consulting	24 July 2024
NatHERS Certificate	-	Bennett Murada Architects	24 July 2024
000 Cover Sheet, 401 Lower Ground, 402 Ground, 403 First Floor, 600 Planting Details.	F	Arcadia	21 August 2024
Geotechnical Memorandum (Reference: R.001.Rev0)	-	Douglas Partners	15 August 2024
Addendum to Arboricultural Impact Assessment Report	-	Martin Peacock Tree Care	2 October 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. Modify Condition 20. Amendments to the approved plans:

The following amendments are to be made to the approved plans:

a) Delete

b) Delete

c) **Southern elevation windows:** All proposed windows on the southern elevation shall be fitted with obscured glazing be designed to be fixed (non-operable) or casement with a maximum opening of less than 45 degrees.

d) **Swimming Pool Balustrading/fence** - The proposed swimming pool to incorporate solid

balustrading/fencing for the entire length of the northern elevation. This balustrading is to be constructed of nontransparent material or opaque glazing measured at a height of at least 1.0m above the finished floor level.

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

Reason: To require amendments to the plans endorsed by the consent authority following assessment of the development.

C. Modify Condition 23. 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 four (4) copies of Civil Engineering plans for the design of vehicular crossing and retaining walls in the road reserve which are to be generally in accordance with the Council's specification for engineering works - AUS-SPEC #1. The plan shall be prepared by a qualified civil engineer. The design must include the following information:

1. A vehicular crossing 3.5 meters wide to be constructed in accordance with Council's standard drawing Maximum Low Skew.
2. Engineering Long sections at both edges and centerline of the driveway.
3. Structural details for the retaining structures along both sides of the roadway.
4. Sight distances are to be in accordance with AS2890.1.
5. Details of the pedestrian access pathway.
6. The application is to include a geotechnical report that is prepared by an appropriately qualified Geotechnical Engineer to assess all proposed works including road works and retaining walls.
7. A services plan indicating all services in the road reserve. Where any services are to be adjusted as a result of the works, approval from the relevant service authority is to be provided.

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 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.

D. Modify Condition 33. 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.

The Project Arborist shall be in attendance and supervise all works as nominated in the Arboricultural Impact Assessment, and in particular:

- a) section 9.0, including 9.1 to 9.13 inclusive,

b) all recommendations outlined in the Addendum to Arboricultural Impact Assessment Report dated 02/10/2024 by Martin Peacock Tree Care.

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.

E. Modify Condition 53. Landscape Completion to read as follows:

Landscape works are to be implemented in accordance with the approved Landscape Plans prepared by Arcadia dated 21/08/24 (drawings 000 Cover Sheet, Plant Schedule, 401 Lower Ground, 402 Ground, 403 First Floor, 600 Planting Details and 601 Specification; all issue F), and inclusive of the following conditions:

- a) landscape works are to be contained within the legal property boundaries,
- b) any landscape works proposed for the road reserve shall be included as part of the s.138 works within the road reserve application, for approval or otherwise,
- c) tree, shrub and groundcover planting shall be installed as indicated on the approved Landscape Plan(s) unless otherwise imposed by any conditions,
- d) all Pennisetum species shall be deleted and replaced with non spreading species.

Prior to the issue of an Occupation Certificate, details (from a landscape architect, landscape designer or qualified horticulturalist) shall be submitted to the Principal Certifier, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

Important Information

This letter should therefore be read in conjunction with DA2022/1715, dated 23 November 2023.

Planning Principles

In a merit consideration of the proposal, consideration of the development has been given against the Land and Environment Court Planning Principle in relation to The extent of demolition - alterations and additions or a new building detailed in Edgar Allan Planning Pty Limited v Wollahra Municipal Council [2006] NSWLEC 790 as follows:

Will the development result in an alteration to an existing by more than half (50%) of the existing external fabric of the building is demolished? (Note: The area of the existing external fabric is taken to be the surface area of all the existing external walls, the roof measured in plan and the area of the lowest habitable floor)	No
Is the development considered to be Alterations and additions; or	Yes
Is the development considered to be a new building	No

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.