

Original signed by: David Hoy Dated:.....12/05/2021

Myrtle 29 Pty Ltd
PO Box 222
CAMMERAY NSW 2062

D339/20
DWH (CIS)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
NOTICE OF DETERMINATION – Refusal

*Issued under Section 4.18 of the Environmental Planning and Assessment Act 1979 (“the Act”).
Clause 100 of the Environmental Planning and Assessment Regulation 2000 (“the Regulation”)*

Development Application Number: 339/20

Land to which this applies: 13 Eden Street, North Sydney
Lot No.: 1, SP: 96224

Applicant: Myrtle 29 Pty Ltd

Proposal: To change of use of six (6) “business/retail” tenancies to studio apartments.

Determination of Development Application: The development application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 5 May 2021. Subject to the provisions of Section 4.17 of the Environmental Planning and Assessment Act 1979, the subject application has been refused for the reasons stated below.

Date of Determination: 5 May 2021

Reason for refusal:

The Panel considers that the proposed conversion of the suites from commercial to residential is unacceptable because of the lack of amenity and private open space for future residents of those suites.

The reasons for refusal are detailed below:

1. The proposal would be contrary to clause 1.2 2(a) of the North Sydney Local Environmental Plan because it has not been demonstrated that the proposal is appropriate to its context and enhances the amenity of the North Sydney community and environment.

2. The proposal is contrary to clause 1.2 2(b) (ii) of the North Sydney Local Environmental Plan because it has not been demonstrated that the proposal will maintain a diversity of activities while protecting residential accommodation and local amenity.
3. Due to the design of the building with a central courtyard and void above, the proposal is contrary to clause 1.2 2(d) (ii) of the North Sydney Local Environmental Plan because the development will adversely affect the amenity of residential properties in terms of acoustic privacy.
4. The proposal is contrary to the stated aim of the B4 Mixed Use zone which is to create interesting and vibrant mixed use centres with safe, high quality urban environments with residential amenity.
5. The proposal is contrary to Objective 5 of Part 1.1.1 (General) of the North Sydney DCP which requires that any development does not have adverse impacts on residential amenity or environmental quality.
6. The written request seeking a variation to the non-residential FSR standard is not considered to be well founded as it has not adequately addressed subclause (3) in Clause 4.6 in NSLEP 2013, nor it is considered to be in the public interest as it is inconsistent with the objectives of the standard and zone.
7. The proposal to convert the six commercial tenancies to residential studios fails to achieve the objectives and guidelines for reasonable solar access into areas of Private Open Spaces and Living Rooms of apartments. In this regard, the proposed apartment 1-4 would receive no solar access to areas of private open space while apartments 1-3 would fail to achieve minimum levels of solar access to living areas within the apartments. In addition, none of the apartments provide adequate cross ventilation. Therefore, the proposed conversion to residential studios would therefore not result in a good planning outcome due to poor residential amenity to any future resident.

How community views were taken into account:

The submissions received by Council were addressed in the NSLPP report (see Council's website: https://www.northsydney.nsw.gov.au/Council_Meetings/Meetings/NSLPP/2021/5_May_2021)

Review of determination and right of appeal:

Within 6 months after the date of notification of the decision, a review of this determination can be requested under Division 8.2 of the Act or an appeal to the Land and Environment Court made pursuant to the provisions of Section 8.7 of the Act. A review of determination should be lodged as soon as possible, and preferably no later two months after the date of notification of the decision to enable the review to be completed within the six-month period.

Endorsed for and on behalf of North Sydney Council

DATE

Signature on behalf of consent authority
DAVID HOY
TEAM LEADER (ASSESSMENTS)
