

27 February 2024

Hao Design Pty Ltd  
39 Starkey Street  
FORESTVILLE NSW 2087

Dear Sir/Madam

**Application Number:** DA2023/1109  
**Address:** Lot 17 DP 23118 , 39 Starkey Street, FORESTVILLE NSW 2087  
**Proposed Development:** Subdivision of one lot into three and alterations and additions to the existing development

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](http://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](mailto:council@northernbeaches.nsw.gov.au)

Regards,



Jordan Howard  
**Planner**

## NOTICE OF DETERMINATION

<b>Application Number:</b>	DA2023/1109
<b>Determination Type:</b>	Development Application

### APPLICATION DETAILS

<b>Applicant:</b>	Hao Design Pty Ltd
<b>Land to be developed (Address):</b>	Lot 17 DP 23118 , 39 Starkey Street FORESTVILLE NSW 2087
<b>Proposed Development:</b>	Subdivision of one lot into three and alterations and additions to the existing development

### DETERMINATION - REFUSED

<b>Made on (Date)</b>	27/02/2024
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### Reasons for Refusal:

1. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the site is considered unsuitable for the proposed development.

Particulars:

- The subject site is considered unsuitable for the proposed development, as the proposal represents an overdevelopment of the site and is inconsistent with the established subdivision character of the surrounding area.

2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of State Environmental Planning Policy (Housing) 2021.

Particulars:

- As per the requirements of Clause 51 of the State Environmental Planning Policy (Housing) 2021, development consent must not be granted for the subdivision of a lot on which development for the purposes of a secondary dwelling has been carried out.

3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause 2.6 Subdivision - consent requirements of the Warringah Local Environmental Plan 2011.

Particulars:

- As per the requirements of Clause 2.6(2) of the Warringah Local Environmental Plan 2011, development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the Lot SizeMap in relation to that land
4. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause Zone R2 Low Density Residential of the Warringah Local Environmental Plan 2011.

Particulars:

- The proposed development will not ensure that low density residential environments are characterised by landscaped settings that are in harmony with the natural environment of Warringah.
5. 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.

Particulars:

- The proposed development does not protect and enhance the residential use and amenity of existing residential environments, and promote development that is compatible with neighbouring development in terms of bulk, scale and appearance.
  - The proposed development does not achieve development outcomes of quality urban design, and ensure that development does not have an adverse effect on streetscapes and vistas, public places, areas visible from navigable waters or the natural environment.
  - Inconsistencies with the aims of the Warringah Local Environmental Plan 2011 arise from inconsistency with the predominate pattern, size and configuration of existing lots in the locality, which is characterized by predominately larger lot sizes of greater than 600sqm, with larger landscaped areas.
  - Furthermore, inconsistencies with the aims of the Warringah Local Environmental Plan 2011 arise from inconsistent with Councils strategic intention to establish minimum lot size within the R2 zone, which will have cumulative adverse impact on the ability to protect those values / aims within the R2 zone, leading to greater loss of natural and biodiversity value and the natural environment landscape character of the land.
6. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause A.5 Objectives of the Warringah Development Control Plan.

Particulars:

- The proposed development does not respond to the characteristics of the site and the qualities of the surrounding neighbourhood.
- The proposed development does not ensure new development is a good neighbour, creates a unified landscape, contributes to the street, reinforces the importance of pedestrian areas and creates an attractive design outcome.

7. Pursuant to Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the provisions of Clause C1 Subdivision of the Warringah Development Control Plan.

Particulars:

- The proposed residential lots (Lot 2 and Lot 3) do not meet the minimum lot width or minimum lot depth control stipulated by Clause C1 Subdivision of the Warringah Development Control Plan.
- The proposed development is inconsistent with the objectives of Clause C1 Subdivision of the Warringah Development Control Plan, and the proposed variation to the control is not supported on merit.

8. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not in the public interest.

Particulars:

- Assessment of the proposed development has found the proposal to be contrary to the relevant planning controls and will result in a development which will create an undesirable precedent such that it would undermine the desired future character of the area and be contrary to the expectations of the community. In this regard, the development, as proposed, is not considered to be in the public interest.

## 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 6 months 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 Jordan Howard, Planner

Date 27/02/2024