

4 August 2023



Chanine Design Pty. Limited  
2/60 Park Street  
SYDNEY NSW 2000

Dear Sir/Madam

**Application Number:** DA2022/2181  
**Address:** Lot 1 DP 208183 , 69 Melwood Avenue, FORESTVILLE NSW 2087  
**Proposed Development:** Demolition works and construction of a seniors housing 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](http://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](mailto:council@northernbeaches.nsw.gov.au)

Regards,



Rodney Piggott  
**Manager Development Assessments**

## NOTICE OF DETERMINATION

<b>Application Number:</b>	DA2022/2181
<b>Determination Type:</b>	Development Application

### APPLICATION DETAILS

<b>Applicant:</b>	Chanine Design Pty. Limited
<b>Land to be developed (Address):</b>	Lot 1 DP 208183 , 69 Melwood Avenue FORESTVILLE NSW 2087
<b>Proposed Development:</b>	Demolition works and construction of a seniors housing development

### DETERMINATION - REFUSED

<b>Made on (Date)</b>	02/08/2023
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### Reasons for Refusal:

1. 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 4.6 Exceptions to development standards of the Warringah LEP.

#### Particulars:

The Panel is not satisfied that:

a) the applicant's written requests under clause 4.6 of the Warringah Local Environmental Plan 2011 seeking to justify a contravention of the SEPP (Housing) 2021 development standards in relation to floor space ratio and building planes has adequately addressed and demonstrated that:

i. compliance with the standards is unreasonable or unnecessary in the circumstances of the case; and

ii. there are sufficient environmental planning grounds to justify the contraventions.

b) the proposed development will be in the public interest because it is consistent with the objectives of the standards and the objectives for development within the zone in which the development is proposed to be carried out.

2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is contrary to the provisions of Clause 108(2)(c) (Floor Space Ratio) of *State Environmental Planning Policy (Housing) 2021*.

Particulars:

Clause 108(2)(c) specifies a floor space ratio of 0.5:1. The proposal is for a floor space ratio of 0.598:1. Consequently;

- a) the proposed development, by virtue of its bulk and scale, will not be consistent with the desired character of the locality.
- b) the development will not be compatible with the bulk and scale of surrounding and nearby development.
- c) the development will not be compatible with the existing streetscape.

3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is contrary to the provisions of Clause 84(2)(c)(iii) (Building Plane) of *State Environmental Planning Policy (Housing) 2021*.

Particulars:

Clause 84(2)(c)(iii) specifies that if the development results in a building with more than 2 storeys—the additional storeys are set back within planes that project at an angle of 45 degrees inwards from all side and rear boundaries of the site. The third storey of the building protrudes outside the 45 degree building plane. Consequently:

- a) the proposed development, by virtue of its bulk and height, will not be consistent with the desired character of the locality.
- b) the proposed development will not be compatible with the height and scale of surrounding and nearby development.

4. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposal is not considered to satisfactorily meet the relevant Design Quality Principles of SEPP 65, in particular Principle 1: Context and Neighbourhood Character, Principle 2: Built Form and Scale, Principle 3: Density and Principle 6: Amenity.
5. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development is not consistent with the Desired Future Character of the location and is an over-development of the site.

## 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

Rodney Piggott, Manager Development Assessments

Date

02/08/2023