

27 November 2023



Gianluca Marcello Mastroianni  
C/- Council Approval Group Po Box 7228  
LEURA NSW 2780

Dear Sir/Madam

**Application Number:** DA2023/0067  
**Address:** Lot 1 DP 232410 , 79 Ashworth Avenue, BELROSE NSW 2085  
**Proposed Development:** Demolition works and subdivision of one (1) lot into two (2) lots

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,



Rodney Piggott  
**Manager Development Assessments**

## NOTICE OF DETERMINATION

<b>Application Number:</b>	DA2023/0067
<b>Determination Type:</b>	Development Application

### APPLICATION DETAILS

<b>Applicant:</b>	Gianluca Marcello Mastroianni
<b>Land to be developed (Address):</b>	Lot 1 DP 232410 , 79 Ashworth Avenue BELROSE NSW 2085
<b>Proposed Development:</b>	Demolition works and subdivision of one (1) lot into two (2) lots

### DETERMINATION - REFUSED

<b>Made on (Date)</b>	22/11/2023
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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 Clause 1.2 Aims of The Plan of the Warringah Local Environmental Plan 2011.
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the objectives of the R2 Low Density Residential Zone of the Warringah Local Environmental Plan 2011.
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 4.1 Minimum Subdivision Lot Size of the Warringah Local Environmental Plan 2011.
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 4.6 Exceptions to Development Standards of the Warringah Local Environmental Plan 2011.

#### Particulars:

- The applicant's written request has established sufficient environmental planning grounds to support the variation
- The variation will create an undesirable precedent.
- The surrounding subdivision pattern is established as being predominantly above the minimum lot size proposed and therefore the proposal is inconsistent with the reduced lot size sought.
- The proposed subdivision has not demonstrated that the land can be developed in full compliance with the applicable development controls for the future residential purpose

of the subdivision.

5. 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 A.5 Objectives of the Warringah Development Control Plan.
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 C4 Stormwater of the Warringah Development Control Plan due to insufficient information to address development engineering and water quality requirements.
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 D6 Access to Sunlight of the Warringah Development Control Plan due to insufficient information to demonstrate future dwellings (including private open space) can achieve compliant solar access.
8. Pursuant to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 the proposed development is unsuitable for the land due to inconsistency with the minimum lot size for subdivision.
9. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is not 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

Rodney Piggott, Manager Development Assessments

Date

22/11/2023