

Chloe Wisker  
C/- J C Engineering Pty Ltd  
403/89 Scarborough Street  
SOUTHPORT QLD 4215

D76/22  
LV2 (CIS)

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

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**Development Application Number:** 76/22

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**Land to which this applies:** 67 Benelong Road, Cremorne  
Lot No.: B, DP: 442011

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**Applicant:** Chloe Wisker

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**Proposal:** Construction of car space and associated landscaping in front setback

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**Determination of Development Application:** 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.

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**Date of Determination:** 3 August 2022

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**Reasons for Refusal:**

- 1) The proposed hardstand car space would significantly increase non-compliance with minimum landscaping area and maximum unbuilt upon area controls as per DCP 1.5.6
  - a) The minimum landscaped area for a property of 232sqm is 30%. The existing landscaped area represents 28.5% of the site, currently non-compliant. The control requires maintenance of current non-compliance or improvement by increasing the amount of landscaped area. The proposed car space would reduce the landscaped area of the site to 18.5% further increasing non-compliance with DCP 1.5.6

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- b) The maximum unbuilt upon area for a property of 232sqm is 20%. The existing unbuilt upon area represents 23.2% of the site, currently non-compliant. The control requires maintenance of current non-compliance or improvement by reducing the amount of unbuilt upon area. The proposed car space would increase the unbuilt upon area of the site to 35.5% further increasing non-compliance with DCP 1.5.6
- 2) The proposed hardstand car space does not meet the requirements of 1.5.4 of the DCP, the control permitting a single car space between the primary street façade and street frontage
- a) The car space does not meet objective three (3) of 1.5.4 as it does not maintain the garden setting of the property. The car space dominates the front garden of the property
  - b) Car space does not comply with the following subitems of P11:
    - i) Excavation required is not minimal in comparison to the area of the parking space, excavation is approximately 1000mm at the deepest which exceeds the 500mm of P3 1.3.1.
    - ii) Requires porous materials to be used for the car space's surface. The current finish is concrete.
    - iii) The landscaped area remaining after the introduction of the car space does not comply with the minimum requirement of 30% and further reduces total landscaped area
- 3) The proposed hardstand car space will have a detrimental impact on the character of the streetscape and the garden setting
- a) The use of the car space will break visual connection between the dwelling and the street and disrupt the unity between the property and neighbouring semis. The proposed car space is unsympathetic to the character of the buildings.
  - b) The car space would detract from the garden setting of the premises by removing the majority of the landscaping within the front setback and replacing with hardstand and paving.

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**How community views were taken into account:**

The development application was notified in accordance with Council's Community Engagement Protocol from 1 April 2022 until 19 April 2022. No submissions were received.

Nevertheless, the potential impact of the proposed development was considered, and it was determined that the proposed car space would have a detrimental impact on the streetscape.

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**Review of determination and right of appeal:**

Within six 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.

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**Endorsed for and on behalf of North Sydney Council**

03 August 2022

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DATE

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Signature on behalf of consent authority  
LEONARD VOGEL  
**PLANNING AND DEVELOPMENT ADVISOR**

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