

Original signed by: Robyn Pearson

Dated:.....9/12/2021

Anne Colville
8 Toongarah Road
WAVERTON NSW 2060

D206/21
RT (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: 206/21

Land to which this applies: 8 Baden Road, Kurraba Point
Lot No.: 2, SP: 83783

Applicant: Anne Colville

Proposal: Alterations and additions to a heritage listed dual occupancy including an attic addition and partial enclosure of ground floor verandah.

Determination of Development Application: The development application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 1 December 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: 1 December 2021

Reason for Refusal:

The North Sydney Planning Panel has refused this development application DA 206/21 as the proposed attic addition would have a detrimental impact upon the significance of the Heritage Item. The bulk and scale of the proposed attic together with the dormer window at No. 8 Baden would significantly alter the character of the Heritage Item as per the following reasons:

1. The written request pursuant to clause 4.6 of NSLEP is not supported

The written request pursuant to clause 4.6 of NSLEP seeking a variation to the height of building development standard in clause 4.3 of NSLEP is not considered to be well founded.

Particulars:

- (i) The proposed attic addition breaches the 8.5m maximum height of building development standard specified in clause 4.3(2) in NSLEP 2013.
- (ii) The written request submitted with the application seeking a variation to the maximum height of building development standard has inadequately addressed the matters required to be addressed in subclause (3) in clause 4.6 in NSLEP 2013.
- (iii) The written request has failed to adequately demonstrate that compliance is unreasonable and unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the height of building development standard.
- (iv) The proposed development is not considered to be in the public interest as the development is not consistent with the objectives of the height of building standard in clause 4.3(1) in NSLEP 2013 and the objectives of the R3 (Medium Density Residential) zone (dot point 4) under NSLEP 2013.

2. Unacceptable heritage impacts

The proposed development is unacceptable because of the adverse impacts on the subject heritage item and the adjoining heritage item.

- (i) The proposed development does not satisfy Clause 5.10(1)(a), Clause 5.10(1)(b) and Clause 5.10(4) in Part 5 of NSLEP 2013 due to the detrimental impacts of the proposed development on the subject heritage listed item, in particular the introduction of an uncharacteristic third storey and the partial enclosure of the original ground floor verandah.
- (ii) The proposal does not satisfy the aims of North Sydney Local Environmental Plan 2013 (NSLEP 2013) as listed in Clauses 1.2 (2)(a), (2)(b)(i), and (2)(f) in Part 1 of NSLEP 2013.
- (iii) The proposed development does not satisfy the objective of the R3 (Medium Density Residential) zone in the Land Use Table in Part 2 of NSLEP 2013 because of the adverse impacts of the proposed development on the significance of the subject heritage listed item, particularly dot point 4.
- (iv) The proposed development does not satisfy the provisions for dual occupancies on a heritage item because the proposed attic addition will not be substantially located within the fabric of the existing building in Clause 6.6 (2)(b)(i) and will not conserve the appearance of the existing building in Clause 6.6 (2)(b)(ii) in Part 6 of NSLEP 2013.
- (v) The proposed development does not satisfy the Area Character Statement for South Cremorne Planning Area in Section 6.0 in Part C of North Sydney DCP 2013 (NSDCP 2013) given that the proposal does not promote a quality built form within the planning area because the design of the proposal fails to reflect and reinforce the distinctive built form of the existing heritage listed building.
- (vi) The application fails to satisfy the development controls for the following sections in Part B of the NSDCP 2013 and is therefore considered unacceptable:
 - a. Section B – 13.5.1 – Protecting heritage significance
 - b. Section B – 13.5.2 – Form massing and scale
 - c. Section B – 13.5.3 – Additional Storeys

- d. Section B – 13.5.4 – Roofs
- e. Section B – 13.5.5 – Interior Layout
- f. Section B – 13.5.7 – Group heritage items
- g. Section B – 13.9.3 – Verandah and Balconies
- h. Section B – 13.9.4 – Materials

3. Inappropriate context, excessive height, bulk and scale

The proposed development is unacceptable because of the proposed attic addition is inappropriate for the two storey built form of the existing building.

Particulars

- (i) The proposed development is inappropriate to its context being a heritage item because the proposed attic addition provides a third storey which is contrary to aim 1.2 (2)(a) in NSLEP 2013 as well as section 1.4.1 in Part B of NSDCP 2013.
- (ii) The proposed development is contrary to Section 1.4.7 and 1.4.8 in Part B of NSDCP 2013 because the proposed attic addition will increase the bulk and scale of the existing building with an uncharacteristic built form due to the creation of a full third storey that would detract from the significance of the subject heritage item.

4. View loss

The proposed development is unacceptable because the proposed attic addition will cause some loss of water views that could be retained with a more skilful design.

Particulars

- (i) The proposed attic addition will cause some loss of water view of Shell Cove currently seen from the adjoining property to the west and is contrary to aim 1.2 (2)(a) in NSLEP 2013 as well as section 1.3.6 in Part B of NSDCP 2013.
- (ii) The proposed development does not satisfy the objective of the R3 (Medium Density Residential) zone in the Land Use Table in Part 2 of NSLEP 2013 because of the adverse impacts of the proposed development on the amenity of the neighbouring properties in terms of the loss of existing water views.

5. Public Interest

The approval of the proposed development is not in public interest because of the adverse impacts on the significance of the subject heritage listed item and the built forms of the adjoining heritage item.

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/2021/1_December_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

9 December 2021

DATE

Signature on behalf of consent authority
ROBYN PEARSON
TEAM LEADER (ASSESSMENTS)
