

Original signed by: Robin Tse Dated: 08/06/2022

107 High North Sydney Pty Ltd  
Suite 4, Level 11, 309 George Street  
SYDNEY NSW 2000

D281/21  
MS3 (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")*

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**Development Application Number:** 281/21

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**Land to which this applies:** 107 High Street, North Sydney  
Lot No.: 0, SP: 3013

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**Applicant:** 107 High North Sydney Pty Ltd

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**Proposal:** Demolition of an existing residential flat building and construction of a new four storey residential flat building with basement parking, landscaping and associated works.

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**Determination of Development Application:** The development application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 1 June 2022. Subject to the provisions of Section 4.16 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:** 1 June 2022

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**Reasons for Refusal:**

- 1. The proposed development fails to satisfy Clause 1.2(2) Aims in Part 1 of the NSLEP 2013.**

**Particulars**

- a) The application fails to allow for a bulk and scale which is compatible with the existing and desired future character of the area inconsistent with aim 2(b)(i);

- b) The application fails to ensure that new development does not adversely affect residential amenity in terms of solar access and view sharing, inconsistent with aim 2(c)(i); and
- c) The application fails to protect the natural, archaeological and built heritage of North Sydney and ensure that development does not adversely affect its significance, inconsistent with aim 2(f).

**2. The proposed development does achieve the objectives of the R4 High Density Residential zone.**

**Particulars**

- a) The proposed development fails to provide for a variety of housing types within the high density residential environment – dot point 2
- b) The proposed built form is inconsistent with the established and desired character of the Careering Cove Conservation Area – dot point 4.
- c) The proposed development would not achieve a reasonably high level of residential amenity given that there are an insufficient proportion of apartments that received adequate solar access to their primary living spaces and outdoor spaces– dot point 5.
- d) The proposed development would not maintain a reasonably high level of residential amenity for surrounding properties given the unreasonable overshadowing and view loss – dot point 5.

**3. The application results in adverse impacts on the significance of the Careering Cove Conservation Area due to its failure to satisfy the heritage requirements of Clause 1.2 and Clause 5.10 of the North Sydney Local Environmental Plan 2013 as well as the heritage requirements of Section 13 the North Sydney Development Control Plan 2013.**

**Particulars:**

**North Sydney LEP 2013**

- a) Clause 5.10(1) in Part 5 of the NSLEP 2013, specifically objective (a) to conserve the environmental heritage of North Sydney;
- b) Clause 5.10(1) in Part 5 of the NSLEP 2013, specifically objective (b) to conserve the heritage significance of the conservation areas, including associated fabric, settings and views;
- c) Clause 5.10(4) in Part 5 of the NSLEP 2013, specifically the adverse effect of the proposed development on the significance of the Careering Cove Conservation area;

**North Sydney DCP 2013**

- d) The proposed development is inconsistent with the objectives or the provisions of Section 13 Heritage and Conservation of the NSDCP 2013, particularly:-
  - i. Section 13.6.2 Form massing and scale, as the proposal does not compliment the character and significance of the Careering Cove Conservation Area. The four storey scale and curved roof form is unsympathetic to the character and significance of the area inconsistent with O1; O2; P1; P2 and P9;

- ii. Section 13.6.3 Roofs, as the proposed curved roof form is uncharacteristic and inconsistent the predominant roof forms within the CA, inconsistent with O1 and P1.
- iii. Section 13.6.6 Infill Development within Conservation areas, as the proposal fails to respond to the setting and character of significant buildings within the immediate vicinity and the CA, inconsistent with O1 and P1;
- iv. Section 13.8 Demolition, as the application fails to retain buildings which reflect the significance of the character of the CA, failing to satisfy O1; P6(b). In particular, the proposed replacement building is not compatible with the characteristics of the immediate vicinity within the conservation area, which is a distinctive area of two storey, pitched roof inter-war residential flat buildings.

#### **4. Uncharacteristic form of development**

The proposed four storey replacement residential flat building with curved roof form fails to allow for a complementary and respectful building form and scale. It is considered to overwhelm the surrounding context and is not considered characteristic or in keeping with the established character of the Careering Cove Conservation Area. The proposed development is contrary to the following provisions:

##### **Particulars:**

The proposed development is contrary to the following:-

- a) Aims of NSLEP 2013, specifically (2)(b)(i);
- b) Clause 5.10(4) Heritage Conservation of NSLEP 2013;
- c) Objective O1 and Provisions P1 in Part B, Section 1.4.1 Context in NSDCP 2013;
- d) Objective O1 in Part B, Section 1.4.7 Form, massing & scale in NSDCP 2013;
- e) Objective O1 and Provision P1 in Part B, Section 1.4.8 Built form character in NSDCP 2013;
- f) Objective O1 and Provisions P1 in Part B, Section 1.4.10 Roofs in NSDCP 2013; and
- g) Inconsistent with Section 8.3.6 Characteristic built elements in Part C of the NSDCP 2013.

#### **5. The proposed development does not comply with the following provisions pursuant to the North Sydney DCP 2013.**

##### **Particulars:**

The proposed development is contrary to the following:-

- a) Objective O1 and Provisions P1 in Part B, Section 1.2.1 Population Mix in NSDCP 2013;
- b) Objective O2 and Provisions P2 and P4 in Part B, Section 1.3.6 Views in NSDCP 2013;
- c) Objective O1 and Provisions P1 and P3 in Part B, Section 1.3.7 Solar access in NSDCP 2013;
- d) Objective O1 in Part B, Section 1.5.1 High Quality of Residential Accommodation in NSDCP 2013;
- e) Objective O1 and Provisions P1 in Part B, Section 1.5.6 Landscape Area in NSDCP 2013;
- f) Objective O2 and P6 in Part B, Section 1.5.8 Front Gardens in NSDCP 2013;

**6. Not considered to be in the public interest or suitable for the subject site.**

The proposed development is not considered suitable for the subject site nor in the public interest.

**Particulars:**

- a) The proposed development would set an undesirable precedent for the Careering Cove Conservation Area and is considered to be unsuitable for the subject site contrary to Section 4.15(c) of the Environmental Planning and Assessment Act 1979 (as amended)
- b) The application raising particular concern about heritage impacts, view sharing, amenity impacts including overshadowing and overlooking, bulk and scale; inconsistent with streetscape / built form character; roof form; excessive excavation; tree removal, traffic congestion and insufficient on-site parking; construction concerns including geo-technical stability; drainage; dust noise and truck movements.
- c) The proposal is not considered to be in the public interest contrary to Section 4.15(e) of the Environmental Planning and Assessment Act 1979 (as amended).

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**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/2022/1\\_June\\_2022](https://www.northsydney.nsw.gov.au/Council_Meetings/Meetings/NSLPP/2022/1_June_2022))

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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**

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DATE

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Signature on behalf of consent authority  
ROBIN TSE  
**A/TEAM LEADER (ASSESSMENTS)**