



Shammi Kabir  
Contemporary Architecture Pty Ltd  
104 Cremorne Road  
CREMORNE POINT NSW 2090

D184/22  
MS3 (CIS)

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

<b>Development Number:</b>	<b>184/22</b>
<b>Land to which this applies:</b>	104 Cremorne Road, Cremorne Point Lot No.: 34, SEC: B, DP: 4150
<b>Applicant:</b>	Contemporary Architecture Pty Ltd
<b>Proposal:</b>	Construction of a swimming pool within the front setback of an existing dwelling house
<b>Determination of Development Application:</b>	Subject to the provisions of Section 4.17 of the <i>Environmental Planning and Assessment Act 1979</i> , the subject application has been refused for the reasons stated below.
<b>Date of Determination:</b>	7 October 2022

**Reasons for Refusal:**

1. The development application is refused because it fails to comply with maximum permitted site coverage provision.

Particulars

- a) Provision P1 of Section 1.5.5 of Part B in NSDCP 2013 states that the maximum site coverage must be in accordance with Table B1-6 which specifies a maximum site coverage of 40% for dwelling houses on lots between 500-700sqm.
- b) The application relates to a dwelling house and has a site area of 649sqm.
- c) The subject site has an approved site coverage of 49.43% under development consent DA268/2012 which is an active consent.
- d) The proposed swimming pool and associated works would result in a non-compliance of 73.2sqm or 11.28%, equating to a variation of 28.2% greater than the control.
- e) The submitted site areas diagram (Drawing 12 A) fails to include the rainwater tanks and external staircases despite these elements being including in the definition of site coverage in Provision P2 of Section 1.5.5 of Part B in NSDCP 2013.

2. The development application is refused because it fails to comply with the minimum setbacks for swimming pools.

Particulars

- a) Provision 4 of Section 1.5.10 of Part B in NSDCP 2013 requires pools and associated structures to be set back a minimum of 6m from any habitable room within a dwelling on an adjoining property.
  - b) The proposed swimming pool and associated pool concourse area is set back less than 6m from the windows of habitable room within the adjoining residential flat building (No. 102 Cremorne Road). The water line is setback 5.2m and the pool concourse area is setback 2.6m from the adjoining dwelling.
  - c) The proposed swimming pool and associated pool concourse is likely to have an adverse acoustic impact on the residents of the adjoining property.
3. The development application is refused because the use of materials and finishes is inappropriate within the Cremorne Point Conservation Area.

Particulars

- a) The subject site is located within the Cremorne Point Conservation Area of the Cremorne South Planning Area.
- b) Provision 1 of Section 6.4.7 of Part C in NSDCP 2013 specifies “glazed balustrades” as an uncharacteristic element.
- c) The proposed swimming pool fence is specified as frameless glazing which is similar in appearance to glazed balustrading and is therefore an uncharacteristic element and is inappropriate for use within the conservation area.

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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 8 July 2022 until 22 July 2022. No submissions were received at Council. Nevertheless, the potential impact to surrounding properties has been considered.

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

Pursuant to Section 8.2, an applicant is able to request Council to review its determination. An application for a review under Section 8.2 of the Act must be made no later than 28 days after the date on which the application for the modification of the development consent was determined.

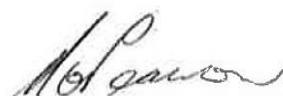
Section 4.55 of the Act confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court pursuant to Section 8.7 of the Environmental Planning and Assessment Act, 1979.

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

**11 October 2022**

DATE



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