



Mr Gavin Gillett  
Gillett Design  
23 Milton Road  
NORTH TURRAMURRA NSW 2074]

D258/22  
AB7 (CIS)

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

<b>Development Number:</b>	<b>258/22</b>
<b>Land to which this applies:</b>	11 Greens Drive, Cammeray Lot No.: 2, DP: 208079
<b>Applicant:</b>	Gavin Gillett, Gillett Design
<b>Proposal:</b>	Alterations and additions to existing semi-detached dwelling
<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>	1 March 2023

**Reasons for Refusal:**

This development application DA 258/22 has been assessed and is refused as the proposed additions are inconsistent with the character and context of the surrounding area and the amenity of adjoining properties, as per the following reasons:

- 1. The proposed development is inappropriate to its context and is incompatible with the built form and landscape character of the Cammeray Planning Area and the Greens Drive neighbourhood and streetscape;**

The proposed development is not appropriate within the site context or compatible with the character of the Greens Drive and the Cammeray Planning Area by virtue of its excessive height, bulk and scale, its excessive building footprint and inadequate area for deep soil tree planting, its incongruous built form, and its failure to respond to the landscaped context of the site and adjoining properties.

**Particulars:**

- a) The proposed development does not satisfy the aims of North Sydney Local Environmental Plan 2013 (NSLEP 2013) as listed in Clauses 1.2 (2)(a), (2)(c)(i), (2)(b)(i), (2)(e)(i) in Part 1 of NSLEP 2013, and the Objectives of the R2 Low Density Residential zone, specifically dot points 3 and 4, to ensure developments are appropriate and compatible to the context, and character of an area and that development does not adversely affect the amenity of neighbouring properties or the natural landscapes of North Sydney.
- b) The proposed development does not satisfy the development standard of North Sydney Local Environmental Plan 2013 (NSLEP 2013) as listed in Clause 6.10 in Part 4 of NSLEP 2013 to ensure that earthworks will not have a detrimental impact upon the environmental functions and processes, and natural vegetation of the land.
- c) The proposed development would have an adverse visual and amenity impact upon surrounding properties, the streetscape presentation of the site, and results in an over-scaled development that is unsympathetic to existing development and character within the street and surrounding area.

The proposed development therefore fails to satisfy the objectives and provisions within Section 1 (Residential Development) in Part B of the North Sydney Development Control Plan 2013 (NSDCP 2013). Specifically, Objectives O5, O6 and O7 of Section 1.1.1 (General Objectives); Objective O1 and Provision P1 of Section 1.4.1 (Context); Objectives O1, O2, O3, and O4, and Provisions P2, P3, P4, and P5, of Section 1.4.6 (Setbacks); Objective O1 of Section 1.4.7 (Form, massing & scale); Objective O1 and Provisions P1 and P2 of Section 1.4.8 (Built form character); Objective O1, and Provisions P1, P2, P3 and P5 of Section 1.4.10 (Roofs); Objective O1 and Provision P2 of Section 1.4.12 (Colours and materials); Objectives O2 and O4 and Provisions P10, P11 and P14 of Section 1.5.4 (Vehicular access and parking); and Objectives O1, O2, O3 and O4, and Provision P1 of Section 1.5.5 (Site coverage).

- d) The proposed development would have an unacceptable impact upon the landscaped context of the site that is located within a bushland buffer zone including the loss of site trees, insufficient landscaped areas, and significant impacts arising from excavation upon adjoining site trees.

The proposed development therefore fails to satisfy the objectives and provisions within Section 1 (Residential Development), Section 15 (Bushland), and Section 16 (Tree and Vegetation Management) in Part B of the North Sydney Development Control Plan 2013 (NSDCP 2013). Specifically, Objective O5 of Section 1.1.1 (General Objectives); Objectives O2 and O3 and Provision P1 of Section 1.3.1 (Topography); Objective O1 and Provision P1 of Section 1.3.2 (Properties in proximity to bushland); Objective O1 and Provisions P1, P3, P4, P8, and P10 of Section 1.5.6 (Landscaped Area); Objectives O1, O2, O3, O4, and Provisions P1 P2 and P6 of Section 1.5.7 (Landscaping); Objectives O1 and O2, and Provisions P2, P3, P5, and P6 of Section 1.5.8 (Front Gardens); Objective O5 of Section 15.1.1 (General Objectives); Objectives O1 and O2 of Section 15.2.1 (Siting and design); Objective O1 and Provision P3 of Section 15.3.3 (Indigenous Vegetation); and the Objectives O2, O3, O4 and O6 of Section 16.1.1 (General Objectives).

- e) The proposed development does not satisfy the Area Character Statement for the Cammeray Planning Area in Section 4 in Part C of NSDCP 2013 – The proposal will adversely and unreasonably impact upon the built form character of the Greens Drive neighbourhood and its context within the surrounding area and is contrary to the objective of development within the planning area that *“reflects and reinforces the existing distinctive built form/landscape areas and distribution of accommodation types”*.

**2. Unnecessary overshadowing and overlooking to neighbouring properties caused by an excessive bulk and scale;**

The proposed development would result in unnecessary overshadowing and overlooking for neighbours.

**Particulars:**

- a) The proposed development, although complying with the minimum 3 hours of solar access to neighbours requirement, still results in unnecessary overshadowing to adjoining neighbours by way of the proposal’s excessive scale, bulk and height and is contrary to the Aims of NSLEP 2013, specifically (2)(c)(i); (Residential amenity); the Objectives of the R2 Low Density Residential zone, specifically dot points 3 and 4, Objectives O5, O6 and O7 in Part B, section 1.1.1 in NSDCP 2013, and Objectives O2 and O4 and Provision P4 in Part B, section 1.4.6 in NSDCP 2013.
- b) The proposed development results in overlooking to the adjoining property to the east from several windows at first floor and ground levels, and is contrary to the Aims of NSLEP 2013, specifically (2)(c)(i); (Residential amenity); the Objectives of the R2 Low Density Residential zone, specifically dot points 3 and 4; Objective O5 in Part B, section 1.1.1 in NSDCP 2013, and Objective O1 and Provision P3 and P5 in Part B, section 1.3.10 in NSDCP 2013.

**3. Insufficient and inadequate plans and supporting information;**

The supporting information is inadequate.

**Particulars:**

- a) The Statement of Environmental Effects has stated that no significant trees would be removed, but the Arborist Report states that all 13 site trees require removal, and 4 neighbouring trees will be subjected to a major and likely unsustainable negative impact.
- b) The submitted BASIX certificate dates to more than three months prior to the submission of the application and is invalid.

**4. The amended development is not in the public interest given the above likely impacts.**

**Particulars:**

- a) The above matters were raised in the two (2) submissions from nearby residents. The proposal is, therefore, not considered to be in the public interest or suitable for the site and is contrary to section 4.15 of the EPA Act.

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

The subject application was notified to surrounding properties and the Bay Precinct Committee seeking comment and two submissions were received raising various objections. It is considered that the proposal would likely result in adverse impacts upon the built form character of the immediate neighbourhood, streetscape, and landscaped context of the site, and will create and excessive bulk and scale that is likely to impact upon the amenity of adjoining and nearby properties. Consequently, the proposal is recommended for refusal.

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

Any variation to the Development Consent can only be made with the written approval of the Council. Major variations will require a new or amended Development Consent.

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.

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**

**3 March 2023**

DATE



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