



Mr Thomas Kiel
24 Premier Street
NEUTRAL BAY NSW 2089

D380/22
DK4 (CIS)

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

Development Number: 380/22

Land to which this applies: 24 Premier Street, Neutral Bay
Lot No.: 1 DP: 541517

Applicant: Thomas Kiel

Proposal: Construction of an open elevated parking platform within the front setback of an existing semi-detached dwelling and new fencing

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.

Date of Determination: 5 April 2023

Reasons for Refusal:

- 1) **The proposed car parking does not comply with section 1.5.4 *Vehicle Access and Car parking of Part B* in NSDCP 2013.**

Particulars

- a) Provision 11 allows for a single open parking space forward of the front building line provided certain criteria are met. The parking space must not be within a garage, carport or other structure.
- b) The proposed elevated parking platform is a significant structure within the front setback area of the dwelling and is inconsistent with objective O3 as the proposed development would not maintain the garden setting of the dwelling and objective O4 as the proposed development would have adverse impacts on the appearance of the street and the group of low-density dwellings.

- 2) The form, massing and scale of the proposed development is inconsistent with the desired built form character associated with the semi-detached dwelling.**

Particulars

- a) The proposed structure is elevated between 0.3-3.3m above the existing ground level of the front setback area of the dwelling resulting a maximum height of 3.6m including the proposed fencing.
- b) The proposed structure would have an uncharacteristic appearance within the streetscape given the excessive structure due to the steep slope of the land and the need for the structure to address the difference in ground levels within the front setback and Council's footpath.
- c) The proposed structure would exceed the eave height of the dwelling whereas provision 6 of section 1.4.7 of Part B in NSDCP 2013 requires ancillary development such as carports to be at a much smaller scale than the residential building.
- d) The proposed carport would occupy a significant portion of the subject site's street frontage and diminish the garden setting of the dwelling.

- 3) The proposed development does not relate to the existing topography of the subject site, the footpath and the street.**

Particulars

- a) The proposed structure is elevated between 0.3-3.3m above the existing ground level of the front setback area of the dwelling to facilitate at grade vehicle access from the street.
- b) The proposed vehicle crossing would require changes to the existing footpath levels which exceed the maximum footpath gradient tolerances.

- 4) The proposed development inconsistent with the objectives of the Low-density Residential zone.**

Particulars

- a) The proposed development is inconsistent with the third objective of the zone as the built form character of the structure would detract from the desired character of the street.
- b) The proposed development is inconsistent with the fourth objective of the zone as the structure would provide an uncharacteristic structure within the front setback that is likely to cause a loss of visual amenity for the adjoining property to the north (23 Montpelier Street).

- 5) Approval of the proposed development would set an undesirable precedent.**

Particulars

- a) Should the adjoining dwellings to the south undertake similar developments, there would be a proliferation of large-scale structures forward of the front building line that would dominate the open front garden areas and diminish the contribution of the dwellings to the streetscape by obscuring sightlines to the dwellings.

How community views were taken into account:

The development application was notified in accordance with Council's Community Engagement Protocol. The proposed development is recommended for refusal as approval is not considered in the public interest.

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.

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*.

Endorsed for and on behalf of North Sydney Council

5 April 2023

DATE



Signature on behalf of consent authority
DAMON KENNY
EXECUTIVE ASSESSMENT PLANNER



Signature on behalf of consent authority
JOSEPH HILL
DIRECTOR CITY STRATEGY