



Ms Catherine L Allen
75 Holtermann Street
CROWS NEST NSW 2065

D346/22
DK4 (CIS)

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

Development Number: 346/22

Land to which this applies: 75 Holtermann Street, Crows Nest
Lot No.: A, DP: 107972

Applicant: Catherine Allen

Proposal: Alterations to the ground floor and to extend the first floor to the rear of the dwelling to create a new master bedroom suite and new guest bedroom

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: 2 November 2023

Reasons for Refusal:

1. Under Part 3, Section 24 (1)(b) of the *EP&A Regulation 2021*, the development application fails to contain all the information and documents required by the approved form and as per the Act or Regulation in that the proposal indicated works within No. 77 Holtermann Street, Crows Nest and owner's consent from this property was not obtained and provided to Council. As such, the consent authority is unable to grant consent.
2. Pursuant to Section 4.15 (1)(a) of the *EP&A Act 1979*, the proposed development does not comply with the following relevant environmental planning instruments and development controls as follows:

- a. *North Sydney Local Environmental Plan 2013* – Aims of the Plan – unable to satisfy the key aims (2)(a), (2)(b)(i) and (2)(c)(i).
 - i. The proposal fails to promote development that is appropriate to its context and enhances the amenity of the North Sydney Community and environment. It involves introducing a built form that is not contextually appropriate, is excessive and disproportionate to the established setbacks and will generate privacy impacts.
 - ii. The proposal fails to provide a compatible built form that is acceptable in terms of bulk, scale and appearance and fails respond to the existing characteristics, opportunities and constraints of the site.
 - iii. The proposal fails to not adversely affect residential amenity in terms of visual privacy.
 - b. *North Sydney Local Environmental Plan 2013* – objectives of R2 zone relating to permitting development that is compatible with the scale, intensity and character of the surrounding residential area.
 - c. *North Sydney Development Control Plan 2013, Part B, Section 1 – Environmental Criteria (Section 1.3.10)* – failure to meet objectives and controls with respect to Visual Privacy.
 - d. *North Sydney Development Control Plan 2013, Part B, Section 1 – Quality Built Form (Section 1.4)* – failure to meet objectives and controls with respect to Form, Massing and Scale, Setbacks and Built Form Character.
 - e. *North Sydney Development Control Plan 2013, Part C, Section 3 – Holtermann Estate B Conservation Area (Section 3.5)* – failure to meet objectives and controls.
3. Pursuant to Section 4.15(1)(b) of the *EP&A Act 1979*, the proposed development is likely to have adverse impacts on privacy of adjoining properties.
 4. Pursuant to Section 4.15(1)(c) of the *EP&A Act 1979*, the subject site is not suitable for the proposed development for the following reasons: the proposal fails to maintain the spatial relationship and will have adverse impacts on neighbouring properties.
 5. Pursuant to Section 4.15(1)(e) of the *EP&A Act 1979*, the proposed development is not considered to be in the public interest and is likely to set an undesirable precedent.

How community views were taken into account:

The subject application was notified to surrounding properties and the Plateau and Bay Precinct for 14 days where five (5) submissions were received, identifying several issues that have been considered in this report and support the refusal of the development application.

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



2 November 2023

DATE

Signature on behalf of consent authority
DAMON KENNY
EXECUTIVE PLANNER (ASSESSMENTS)