



Mr David McCrae
18A Thornton Street
FAIRLIGHT NSW 2094

D288/23
MAB (CPE)

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

Development Number:	288/23
Land to which this applies:	59 Undercliff Street, Neutral Bay Lot No.: 1, DP: 223368
Applicant:	David McCrae
Proposal:	Alterations and additions to existing dwelling, including first floor extensions and studio above garage.
Determination of Development Application:	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.
Date of Determination:	20 March 2024

Reasons for Refusal:

1. The proposed development is inappropriate to its context and the built-form character of the Undercliff and Reserve Street streetscapes

The proposed development is incompatible with the built form of its context by virtue of its excessive bulk and scale, its incongruous built form, and its failure to respond to the established pattern of development on adjoining properties.

Particulars:

- a) The application is considered to be unacceptable pursuant to the provisions Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* in that the proposed development will breach Section 1.3.1 Topography; Section 1.3.10 Visual Privacy; Section 1.3.10 Context; Section 1.4.6 Setbacks; Section 1.4.7 Form, Massing and Scale; Section 1.4.8 Built Form Character; Section 1.4.10 Roofs; Section 1.4.11 Dormers; Section 1.5.5 Site Coverage and Section 1.5.6 Landscaped Area of *North Sydney Development Control Plan 2013*.

- b) The application is considered to be unacceptable pursuant to the provisions Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* in that the proposed development would have an adverse visual and amenity impact upon surrounding properties and the streetscape presentation of the site and would result in an over-scaled development that is unsympathetic to existing development and character within the street and surrounding area.
- c) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979* in that the proposed development is an overdevelopment of the site which is not suitable for development of the proposed form and scale.
- d) The application is considered to be unacceptable pursuant to the provisions of s. 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979* in that the proposed development will be inappropriate with the established pattern of development of its context, will create an undesirable precedent and is therefore not in the public interest.

2. The proposed development will result in unacceptable privacy impacts to neighbouring properties

The proposed development would result in unnecessary overlooking for neighbours due to its excessive bulk and scale.

Particulars:

- a) The application is considered to be unacceptable pursuant to the provisions Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* in that the proposed development would have an adverse impact on the visual privacy of surrounding properties, while a more appropriately scaled development would not have that privacy impact.

3. The proposed development will result in poor amenity for residents

The proposed development is not appropriate because it will result in unacceptable internal amenity.

Particulars:

- a) The application is considered to be unacceptable pursuant to the provisions Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* in that the proposed development would result in internal spaces with inadequate floor-to-ceiling height.

4. The proposed development is not suitable for the site

The scale and design of the proposed development is unacceptable because it is unsuitable for the Site.

Particulars:

- a) The application is considered unacceptable pursuant to the provisions of s.4.15(1)(c) & (d) of the *Environmental Planning and Assessment Act 1979* in that the proposed development is not suitable for the site due to the adverse environmental impacts on the amenity of adjoining properties and the local character.

5. Insufficient and inadequate plans and supporting information

The supporting information is inadequate.

Particulars:

- a) The application is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(iv) of the *Environmental Planning and Assessment Act 1979* in that the proposed development fails to meet the requirements outlined in Clause 23 and 36 of the *Environmental Planning and Assessment Regulation 2021*. The submitted Shadow Diagrams are of limited utility in assessing the overall overshadowing upon adjoining properties, including the shadows cast in relation to the openings and elevations of adjoining properties.

How community views were taken into account:

The subject application was notified to adjoining properties and the Neutral/Hayes Precinct for 14 days where a number of issues were raised that have been addressed in this report. These will be addressed by the refusal of the DA.

Right of Appeal:

Within six months after the date of notification of the decision, an appeal to the Land and Environment Court can be made pursuant to the provisions of Section 8.7 of the Act.

Endorsed for and on behalf of North Sydney Council

20 March 2024

DATE



Signature on behalf of consent authority
ISOBELLA LUCIC
TEAM LEADER (ASSESSMENTS)