

Anne McCusker  
66 Shellcove Road  
NEUTRAL BAY NSW 2089

D37/19  
MS3 (CIS)

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

*Issued under Section 4.18 of the Environmental Planning and Assessment Act 1979 (“the Act”).  
Clause 100 of the Environmental Planning and Assessment Regulation 2000 (“the Regulation”)*

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**Development Application Number:** 37/19

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**Land to which this applies:** 66 Shellcove Road, Neutral Bay  
Lot No.: 1, DP: 791424

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**Applicant:** Anne McCusker

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**Proposal:** Subdivision of Lot containing a heritage item.

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**Determination of Development Application:** The development application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 3 April 2019. Subject to the provisions of Section 4.18 of the Environmental Planning and Assessment Act 1979, the subject application has been refused for the reasons stated below.

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- Reason for refusal:**
1. The proposed subdivision is not considered to be orderly development of the land in accordance with section 1.3 of the Act.
  2. The proposed subdivision fails to meet the minimum lot size pursuant to clause 4.1 of NSLEP 2013.
  3. The Applicant’s written request to vary the development standard has failed to demonstrate that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case, or that there are sufficient environmental planning grounds to justify the variation.
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4. The proposed subdivision would adversely impact the heritage significance, curtilage and setting of 'Bovington' which is listed as a local heritage item in schedule 5 of NSLEP 2013.
  5. Proposed lot 2 is sufficiently constrained that the reasonable construction of a dwelling house consistent with the desired character of the area would either not be possible or would result in unreasonable impacts the amenity of adjoining properties.
  6. The proposed subdivision is not considered in the public interest considering the issues raised above and the objections raised by the community.
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**Date of Determination:** 3 April 2019

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

The Development Application was notified from 1 March 2019 until 15 March 2019. The submissions received by Council were addressed in the NSLPP report (see Council's website: [https://www.northsydney.nsw.gov.au/Council\\_Meetings/Meetings/NSLPP/2019/3\\_April\\_2019](https://www.northsydney.nsw.gov.au/Council_Meetings/Meetings/NSLPP/2019/3_April_2019))

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**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.

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

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DATE

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Signature on behalf of consent authority  
ROBYN PEARSON  
TEAM LEADER ASSESSMENTS

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