

Cameron Alan Gillies  
21 Hampden Road  
BATTERY POINT TAS 7004

D41/20  
LD (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:** 41/20

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**Land to which this applies:** 10 Oak Street, North Sydney  
Lot No.: 41, DP: 807441

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**Applicant:** Cameron Gillies

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**Proposal:** Alterations and additions to a heritage listed semi-detached dwelling including a rear two storey addition.

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**Determination of Development Application:** The development application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 2 September 2020. 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.

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**Date of Determination:** 2 September 2020

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**Reasons for Refusal:**

**1. Adverse Heritage Impacts**

The proposed two storey rear addition would not conserve the heritage significance of the heritage item and Edward Street Conservation Area.

Particulars:

- (a) The form, massing and scale of the proposed two storey rear addition is over scaled will be visible from the primary street frontage and will overwhelm the heritage significance of the original single storey semi-detached dwelling which is heritage listed and nearby heritage items that are similarly located with the Edward Street Conservation Area.

- (b) The proposed two storey rear addition is inconsistent with:
- i. Objective (a) and (b) in Clause 5.10 (1) in NSLEP 2013 and Clause 5.10(4) in NSLEP 2013;
  - ii. Aims of Plan, Clause 1.2(2)(a), (b)(i), and (f) in NSLEP 2013.
  - iii. Objective, dot point 3, of the R2 Low Density Residential in NSLEP 2013;
  - iv. Objective O1 and Provision P1 in Part B, Section 13.4 ‘Development in the vicinity of heritage items’ in NSDCP 2013;
  - v. Objective O1, O2, O3, O6 and Provision P3 in Section 13.5.1 ‘Protecting heritage significance’ in NSDCP 2013;
  - vi. Objective O1, O2, Provisions P1, P2 and P5 in Part B, Section 13.5.2 ‘Form, massing, scale’ in NSDCP 2013;
  - vii. Objective O1, Provision P1 and P2 in Part B, Section 13.5.3 ‘Additional storeys’ in NSDCP 2013;
  - viii. Objective O1 and Provision P1 in Part B, Section 13.5.4 ‘Roofs’ in NSDCP 2013;
  - ix. Objective O1 and Provision P5 in Part B, Section 13.5.5 ‘Interior layouts’ in NSDCP 2013;
  - x. Objective O1 in Part B, Section 13.6.1 ‘General objectives’ – Heritage Conservation Areas in NSDCP 2013;
  - xi. Objectives O1, O2 and Provision P1 in Part B, Section 13.6.2 ‘Form, massing & scale’ in NSDCP 2013;
  - xii. Objective O1, Provision P1, P2 and P3 in Part B, Section 13.6.4 ‘Additional storeys and levels’ in NSDCP 2013;
  - xiii. Objective O1, O2 and Provision P2 in Part B, Section 13.10.2 ‘Single storey attached dwellings’ in NSDCP 2013;
  - xiiii. Provisions P3, P5 and P6 in Part C, Section 10.12.6 ‘Characteristic built elements’ in NSDCP 2013 and Provision P1 in Part C, Section 10.12.7 ‘Uncharacteristic elements’ in NSDCP 2013 for the Edward Street Conservation Area’;
  - xv. Objective O1 and Provision P1 in Part B, Section 1.4.1 ‘Context’ in NSDCP 2013;
  - xvi. Objective O1 and Provision P2 in Part B, Section 1.4.7 ‘Form, Massing and Scale’ in NSDCP 2013; and
  - xvii. Objective O1 and Provision P1 in Part B, Section 1.4.8 ‘Built Form Character’ in NSDCP 2013.

## **2. Overdevelopment of the site**

The proposed two storey rear addition results in site coverage, landscape area and side setback DCP non compliances which have not been adequately offset by the landscape or design response. The degree of non compliances demonstrate an overdevelopment of the site. The excessive bulk and scale will result in adverse visual impacts for the adjoining property at 8 Oak Street.

### Particulars:

- (a) The proposed site coverage is 67.6% and non-compliant with the maximum site coverage control of 60% in Provision P1 in Part B, Section 1.5.5 'Site coverage' in NSDCP 2013.
- (b) The proposed landscape area is 7.05% and non-compliant with the minimum landscape area of 20% in Provision P1 in Part B, Section 1.5.6 'Landscape area' in NSDCP 2013.
- (c) The non-compliances referred to in (a) and (b) result in a dwelling of excessive footprint which significantly reduces opportunities for landscaping and private open space at the rear of the site. The proposal is inconsistent with:
  - i. Objective O1, O3, O4 and Provision P1 in Part B, Section 1.5.5 'Site coverage' in NSDCP 2013'
  - ii. Objective O1(a), (b), (f), (g) and (i) in Part B, Section 1.5.6 'Landscape area' in NSDCP 2013;
  - iii. Objective O2 and Provision P1 in Part B, Section 1.5.10 'Private and communal open space' in NSDCP 2013.
- (d) The blank two storey western wall is non-compliant with the minimum side setback control of 1500mm in Part B, Section 1.4.6 'Setbacks' in NSDCP 2013.
- (e) The non-compliance referred to in (d) results in a dwelling of significant bulk and scale that will have adverse visual impacts for the adjoining property at 8 Oak Street. The proposal is inconsistent with:
  - i. Objective, dot points 3 and 4 of the R2 Low Density Residential zone;
  - ii. Objectives O2, O3 and O4 in Part B, Section 1.4.6 'Setbacks' in NSDCP 2013;

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

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/2020/2\\_September\\_2020](https://www.northsydney.nsw.gov.au/Council_Meetings/Meetings/NSLPP/2020/2_September_2020))

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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**

\_\_\_\_\_  
DATE

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Signature on behalf of consent authority  
DAVID HOY  
**TEAM LEADER (ASSESSMENTS)**

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