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D9/21
LD (CIS)

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

Development Application Number: 9/21

Land to which this applies: 46 Burlington Street, Crows Nest
Lot No.: 1, DP: 443178

Applicant: Peter Princi Architects

Proposal: Alterations and additions to the existing dwelling including a new first floor addition and detached double garage

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: 23 March 2021

Reasons for refusal:

1. Adverse heritage impacts

The proposed first floor addition will result in an adverse heritage impact on the contributory item and the character and heritage significance of the Holtermann Estate B conservation area.

Particulars

- (a) The proposal is inconsistent with the Aims of Plan in Section 1.2(2)(b)(i) and 1.2(2)(f) in NSLEP 2013, Section 2.3(2), specifically the R2 Low Density Residential zone objective (dot point 3) in NSLEP 2013 and objectives (a) and (b) in Clause 5.10(1) in NSLEP 2013.
 - (b) The proposal is also inconsistent with the following objectives and provisions in Part B, Section 13.6 ‘Heritage Conservation Areas’ and Part C, Section 3.5 ‘Holtermann B Conservation Area’ in NSDCP 2013 –
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- i. Objectives O1 and O2 in Part B, Section 13.6.1 ‘General Objectives’ in NSDCP 2013;
 - ii. Objectives O1 and O2 and Provision P1, P2 and P9 in Part B, Section 13.6.2 ‘Form, massing and scale’ in NSDCP 2013;
 - iii. Objective O1 and Provision P1 in Part B, in Part B, Section 13.6.3 ‘Roofs’ in NSDCP 2013;
 - iv. Objective O1 and Provision P1, P2 and P3 in Part B, Section 13.6.4 ‘Additional storeys and levels’ in NSDCP 2013;
 - v. Objective O1 and Provision P2 in Part B, Section 13.10.1 ‘Single storey detached cottages’ in NSDCP 2013;
 - vi. Provision P1 in Part C, Section 3.5.5 ‘Characteristic buildings’ in NSDCP 2013;
 - vii. Provisions P3, P4, P7, P8 in Part C, Section 3.5.6 ‘Characteristic built elements’ in NSDCP 2013; and
 - viii. The proposed first floor addition is identified as an ‘uncharacteristic element’ within the Holtermann B Conservation Area as indicated in Provision P1 in Part C, Section 3.5.7 in NSDCP 2013.

2. Uncharacteristic built form

The proposed first floor addition does not contribute to or be sympathetic to the predominant single storey character along the northern side of Burlington Street.

Particulars

The proposal is inconsistent with the following objectives and provisions in Part B, Section 1.4.8 in NSDCP 2013 –

- i. Objectives O6 and O9 in Part B, Section 1.1.1 ‘General Objectives’ in NSDCP 2013; and
- ii. Objective O1 and Provision P1 and P2 in Part B, Section 1.4.8 ‘Built form character’ in NSDCP 2013.

3. Non-compliance with the maximum site coverage control in NSDCP 2013

The proposal results in a significant non-compliance with the maximum site coverage control in NSDCP 2013 which indicates an overdevelopment of the site.

Particulars

- i. The proposed site coverage of 69.9% is significantly non-compliant with the maximum site coverage control of 50% specified in Provision P1 in Part B, Section 1.5.5 in NSDCP 2013.
- ii. The proposed site coverage is inconsistent with Objectives O1, O2 and O4 in Part B, Section 1.5.5 in NSDCP 2013.

4. Inadequate and insufficient information

The information submitted as part of the application is considered both inadequate and insufficient to enable a detailed assessment of the application.

Particulars

- i. The floor plans of the dwelling submitted as part of the application do not include the boundaries of the site. This is a requirement under Schedule 1 'Forms', specifically Part 1, Section 2 of the Environmental Planning and Assessment Regulation 2000.
- ii. The submitted plans do not provide landscape area calculations demonstrating compliance with Provision P1 in Part B, Section 1.5.6 in NSDCP 2013.
- iii. There are inconsistencies in respect of the proposed roof height of the garage between the different elevation plans submitted as part of the application.
- iv. Building dimensions to boundaries are not indicated on the different elevation plans.
- v. The elevations and floor plans do not indicate existing buildings located on the adjoining properties.
- vi. The plans are unclear in respect of the proposed eave overhang on the northern side of the garage and its setback to the Burlington Lane boundary of the site.
- vii. The plans are unclear in respect of the proposed garage wall setbacks to the eastern and western side boundaries of the site and the existing boundary treatments.
- viii. The plans do not provide details of the 'new pedestrian gate' to Burlington Street.
- ix. The eastern and western elevations do not show front part of the site including the front boundary to Burlington Street.
- x. The existing setback (dimension) to the eastern boundary of the site is illegible on the submitted site plan.
- xi. The plans do not indicate the ground level treatment of the space between the northern wall of the dwelling and southern roller shutter of the garage.

How community views were taken into account:

The subject application was notified to adjoining properties and the Holtermann Precinct for 14 days where a number of issues were raised that have been addressed in this report.

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

DATE

Signature on behalf of consent authority
LUKE DONOVAN
SENIOR ASSESSMENT OFFICER
