

Stuart Bryson
12 Premier Street
NEUTRAL BAY NSW 2089

D24/21
MS3 (CIS)

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

Development Application Number: 24/21

Land to which this applies: 12 Premier Street, Neutral Bay
Lot No.: 352, DP: 579433

Applicant: Stuart Bryson

Proposal: Construction of a carport within the front setback area of an existing semi-detached dwelling house and associated vehicle crossing.

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: 26 March 2021

Reasons for refusal:

- 1) **The proposed car parking does not comply with section 1.5.4 *Vehicle Access and Car parking* of Part B in NSDCP 2013.**

Particulars

- a) Provision 11 allows for a single open parking space forward of the front building line provided certain criteria are met. The parking space must not be within a garage, carport or other structure.
- b) Even if the carport canopy were to be removed, the proposed elevated parking platform would still be a significant structure within the front setback area of the dwelling and is inconsistent with objective O3 as the proposed development would not maintain the garden setting of the dwelling and objective O4 as the proposed development would have adverse impacts on the appearance of the street and the group of semi-detached dwellings.

2) The form, massing and scale of the proposed development is inconsistent with the desired built form character associated with the semi-detached dwelling.

Particulars

- a) The proposed carport is elevated between 4.2-5m above the existing ground level of the front setback area of the dwelling resulting a maximum height of 7.6m.
- b) The proposed carport would have an uncharacteristic appearance within the streetscape with its awkward proportions due to the steep slope of the land and the need for the structure to address the difference in ground levels within the front setback and Council's footpath.
- c) The proposed carport would exceed the height of the dwelling whereas provision 6 of section 1.4.7 of Part B in NSDCP 2013 requires ancillary development such as carports to be at a much smaller scale than the residential building.
- d) The proposed carport would occupy 60% of the subject site's street frontage and diminish the garden setting of the dwelling.

3) The proposed development does not relate to the existing topography of the subject site, the footpath and the street.

Particulars

- a) The proposed carport is elevated between 4.2-5m above the existing ground level of the front setback area of the dwelling to facilitate at grade vehicle access from the street.
- b) The proposed carport results in a significant undercroft area which would be highly visible from the subject site, adjoining properties to the south and from the public domain.

4) The proposed development inconsistent with the objectives of the Low Density Residential zone.

Particulars

- a) The proposed development is inconsistent with the third objective of the zone as the built form character of the carport would detract from the desired character of the street.
- b) The proposed development is inconsistent with the fourth objective of the zone as the carport would overshadow the adjoining property to the south and have an adverse visual impact from the dwellings.
- c) The proposed carport would provide an uncharacteristic structure within the front setback that is likely to cause a loss of visual amenity for the adjoining property to the south (No. 10 Premier Street)

5) Approval of the proposed development would set an undesirable precedent.

Particulars

- a) Should the adjoining dwellings to the south undertake similar developments, there would be a proliferation of large scale structures forward of the front building line that would dominate the open front garden areas and diminish the contribution of the dwellings to the streetscape by obscuring sightlines to the dwellings.

6) The proposed driveway would adversely impact the health and stability of the street tree located in Council’s verge in front of the property

Particulars

- a) The proposed driveway must be setback a minimum of 1m from the trunk of the street tree to minimise the impact on the tree and to maintain safe vehicle sightlines.
- b) The sensitive construction methodology referenced in the submitted arborist report has not been detailed to enable Council to undertake a complete assessment of the potential impacts of the development.

How community views were taken into account:

The development application was notified in accordance with Council’s Community Engagement Protocol 5 February 2021 until 19 February 2021. The proposed development is recommended for refusal as approval is not considered in the public interest.

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
ROBYN PEARSON
TEAM LEADER (ASSESSMENTS)
