

Philip Jakob Mehrgardt
U1113/8 Park Lane
CHIPPENDALE NSW 2008

D18/21
KRR (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”)*

Development Application Number: 18/21

Land to which this applies: 1 Bank Lane, North Sydney
Lot No.: 1, DP: 726071

Applicant: Philip Jakob Mehrgardt

Proposal: Demolition of existing contributory item and construction of new two storey dwelling, car space, associated landscaping and ancillary works.

Determination of Development Application: The development application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 2 June 2021. 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: 2 June 2021

Reason for Refusal:

1. Heritage

The proposed demolition of the single storey contributory item dwelling house is contrary to the heritage controls in North Sydney Local Environmental Plan 2013 (NSLEP 2013) and North Sydney Development Control Plan 2013 (NSDCP 2013).

Particulars

- a) The subject property, 1 Bank Lane, North Sydney is a single storey dwelling that is listed as a contributory item of the NSDCP 2013

- a) The proposal aims to demolish a circa 1890s Victorian style contributory dwelling from the core period of development.
- b) The proposal to demolish the existing dwelling will result in the complete removal of an item of heritage of North Sydney and the heritage significance of the item will not be conserved. Therefore, the proposal does not meet the objectives of Clause 5.10 'Heritage Conservation' under NSLEP 2013 and is inconsistent with the relevant aims of NSLEP 2013 and the objectives for the R2 (Low Density Residential) zone.
- c) The Statement of Heritage Impact (SoHI) does not establish any factor that could be considered to be so strongly in favour of the proposed new building (a two-storey contemporary style dwelling) that the demolition of the heritage item is justified.
- d) The application does not adequately address the provisions of Section 13.8 of NSDCP 2013. The applicant has not satisfactorily demonstrated why it is not reasonable to conserve the heritage item and that alternative options to demolition have been considered.
- e) The application does not meet the objective for Section 13.4 of the NSDCP 2013, as the proposal will diminish the heritage significance of the group of heritage items in the vicinity of the subject property and the significance of the Union Bank and Thomas Street Conservation Area.

2. Overdevelopment of the Site

The proposed development due to new car port and the excessive bulk and scale of the new dwelling is considered to be an overdevelopment of the site. The proposal would introduce fill into the site which contributes to the overall bulk and scale of the building at street level

Particulars

- a) The site coverage of the building is excessive for the size of the site and is not characteristic of surrounding developments or the conservation Area. The proposed development is contrary to the following provisions:
 - i. Aims of NSLEP 2013, specifically (2)(a) and (b)(i);
 - ii. Clause 5.10 Heritage Conservation of NSLEP 2013
 - iii. Clause 6.10 Earthworks of NSLEP 2013
 - iv. Objective O1 and Provisions P1 and P4 in Part B Section *1.3.1 Topography* on NSDCP 2013
 - v. Objective O1 and Provisions P1 in Part B, Section *1.4.1 Context* in NSDCP 2013;
 - vi. Objective O1 and Provision P2 in Part B Section *1.4.3 Streetscape* in NSDCP 2013
 - vii. Objective O1 and Provision P2 in Part B, Section *1.4.7 Form Massing and Scale* in NSDCP 2013;
 - viii. Objective O1 and Provision P2 in Part B, Section *1.4.8 Built Form Character* in NSDCP 2013;
 - ix. Objective O3 and O4 and Provision P10 in Part B, Section *1.5.4 Vehicular Access and Car Parking* in NSDCP 2013;

3. The development Would not be in keeping with the established Character of the Union, Bank, Thomas Street Conservation Area

The non-compliances with the following controls of NSLEP 2013 and North Sydney Development Control Plan (NSDCP 2013) result in a development that is uncharacteristic and will not be in keeping with the established character of the conservation area.

- a. Part 5 Clause 5.10 Heritage conservation of NSLEP 2013 and
- b. NSDCP 2013 Section 13 Heritage and Conservation:

Part B Section 13 Heritage and Conservation Particulars:

- 13.6.1 General objectives O1/ O3
- 13.6.2 Form, massing, scale O1/ O2/ P1/ P2/ P5/ P7/ P9
- 13.6.4 Additional storeys and levels O1/ P1/P2 (a)
- 13.9.5 Garages and Carport P3/P4/P6

- c. NSDCP 2013 Part C Lavender Bay Planning Area, Section 9.10 Union, Bank, Thomas Street Conservation Area

Part C Section 9.10 Union, Bank, Thomas Street Conservation Area Particulars:

- 9.10.6 Characteristic Building element Controls P1, P2, P11, P16
- 9.10.7 Uncharacteristic Elements Control P1

4. Failure to satisfy the following relevant objectives within the North Sydney Development Control Plan 2013.

The proposed development fails to satisfy the objectives of a number of the controls within the North Sydney Development Control Plan 2013 (NSDCP 2013).

Particulars

- a) The non-compliances with the following controls of North Sydney Development Control Plan (NSDCP 2013) result in a development that is uncharacteristic and represents an overdevelopment of the site and will not be in keeping with the established character of the conservation area.

The proposed development is contrary to the following:

- i. Objectives of the R2 Low Density Residential zone, specifically dot point 3;
- ii. Objective O1 and Provisions P1 and P4 in Part B Section *1.3.1 Topography* on NSDCP 2013
- iii. Objective O1 and Provisions P1 in Part B, Section *1.4.1 Context* in NSDCP 2013;
- iv. Objective O1 and Provision P2 in Part B Section *1.4.3 Streetscape* in NSDCP 2013
- v. Objective O1 and Provision P2 in Part B, Section *1.4.7 Form Massing and Scale* in NSDCP 2013;

- vi. Objective O1 and Provision P2 in Part B, Section 1.4.8 *Built Form Character* in NSDCP 2013;
- vii. Objective O3 and O4 and Provision P10 in Part B, Section 1.5.4 *Vehicular Access and Car Parking* in NSDCP 2013;

5. Not considered to be in the public interest

The proposed development would set undesirable precedent for the subject site nor in the public interest.

Particulars

- a) The size of the proposed building is not considered to be suitable for the site nor would be characteristic within the Union Bank and Thomas Street Conservation Area and contrary to Section 4.15(c) of the Environmental Planning and Assessment Act 1979 (as amended)
- b) Public submissions were received against the application raising particular concerns about the excessive bulk, scale and density of the development, uncharacteristic built form, non-compliance with the landscape area, and privacy. The proposal in its current form is not considered to be in the public interest contrary to Section 4.15(e) of the Environmental Planning and Assessment Act 1979 (as amended).

How community views were taken into account:

The submissions received by Council were addressed in the NSLPP report (see Council's website: [North Sydney Council - 2 June 2021 \(nsw.gov.au\)](http://www.northsydney.nsw.gov.au))

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
DAVID HOY
TEAM LEADER (ASSESSMENTS)