

Madera House Pty Ltd  
PO Box 222  
CAMMERAY NSW 2062

D129/21  
RP (CIS)

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

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<b>Development Application Number:</b>	<b>129/21</b>
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<b>Land to which this applies:</b>	6 Thrupp Street, Neutral Bay Lot No.: 1, DP: 543026
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<b>Applicant:</b>	Madera House Pty Ltd
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<b>Proposal:</b>	Installation of mechanical car stacker to provide off street parking for four vehicles
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<b>Determination of Development Application:</b>	Subject to the provisions of Section 4.17 of the <i>Environmental Planning and Assessment Act 1979</i> , approval has been granted subject to conditions in the notice of determination.
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<b>Date of Determination:</b>	23 December 2021
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**Reasons for Refusal**

The proposal was considered under the relevant Environmental Planning Instruments and policies including NSLEP 2013 and NSDCP 2013 and general found to be unsatisfactory for the following reasons:

**1. Streetscape**

The proposed car stacker is uncharacteristic within the R2 low density zone and will result in an adverse impact upon the surrounding streetscape.

Particulars

- (i) The construction of a car stacker fails to maintain the existing topography of the site contrary to Provision P1 Section 1.3.1 NSDCP 2013
- (ii) The proposed development is contrary to Provision P3 Section 1.3.1 in that the proposed excavation results in existing ground levels in the front setback not being maintained.
- (iii) The proposed excavation will be less than 1m from the northern boundary failing to comply with the minimum 1m setback set out in Provision P5 Section 1.3.1 NSDCP 2013.
- (iv) The car stacker and excavation are contrary to the existing and desired character of the R2 low density residential zone and is not considered to be contextually appropriate, contrary to Section 1.4.1 NSDCP 2013.
- (v) the proposed car stacker is considered to provide an insufficient front setback to Thrupp Street on the basis of the uncharacteristic structure that is proposed, contrary to Provision P1 in Section 1.4.6 NSDCP 2013.
- (vi) The proposed car stacker is considered to provide an inconsistent built form character in that it does not represent the desired character of the locality in particular and the R2 zone generally, contrary to Section 1.4.8 NSDCP 2013.
- (vii) The proposal fails to minimise the hard surface within the front garden, contrary to Provision P2 in Section 1.5.8 NSDCP 2013.
- (viii) The proposal fails to soften and complement the view of the front garden of the development, contrary to Provision P6 Section 1.5.8 NSDCP 2013.

**2. Traffic**

The proposed car stacker is likely to result in unreasonable impacts on the surrounding traffic network.

Particulars

- (i) The proposed car stacker is not appropriately located within the front setback of the R2 low density residential zone and fails to meet the criteria set out in Section 10.3.2 NSDCP 2013
  - (ii) the proposed development fails to meet the provisions of Provision P5 Section 1.5.4 NSDCP 2013 in that there is no waiting bay provided and the proposed development fails to demonstrate how queuing on the street will be avoided.
  - (iii) The proposed development fails to meet the provisions of P6 NSDCP 2013 in that the cars from the car stacker will not be able to enter and exit in a forward direction onto and from Thrupp Street.
  - (iv) The proposed development is contrary to P11 Section 1.5.4 NSDCP 2013 in that the structure will be in front of the primary line, involves excessive excavation and does not utilise porous materials.
  - (v) The proposed development is contrary to P14 Section 1.5.4 NSDCP 2013 in that the development will compromise the character of the streetscape through the provision of the car stacker.
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**3. Site Coverage**

The proposed development will increase site coverage to 45%, exceeding the maximum site coverage reasonably expected on the site within the R2 zone.

Particulars

- (i) The proposal results in an increase in site coverage which is contrary to the desired character of the locality
- (ii) The proposed site coverage exceeds the maximum site coverage requirements set out in Section 1.5.5 NSDCP 2013 for the development of residential flat buildings.

**4. Acoustic Impacts**

The proposal fails to demonstrate that the proposed development will result in satisfactory acoustics impacts.

Particulars

- (i) No Acoustic Report has been submitted with the application and no specifications for the lift have been submitted with the application having regard to the proposed car stacker.
- (ii) The proposed development fails to demonstrate that the proposed development can comply with the acoustic standards set out in Section 1.3.8 NSDCP 2013 and with all relevant acoustic standards.
- (iii) The proposed development fails to demonstrate that the proposed development will result in reasonable acoustic amenity to surrounding properties.

**5. Inadequate information**

Inadequate information has been submitted to support the development application.

Particulars

- (i) The submitted Statement of Environmental Effects refers to the application as a Section 4.55 modification application and fails to address relevant controls contrary to the requirements of Schedule 1 of the Environmental Planning and Assessment Act Regulations.
- (ii) Inadequate information has been submitted to demonstrate how safety will be ensured including from the Thrupp Street footpath given there is minimal setback proposed, contrary to Section 1.5.3.

**6. Public Interest**

The approval of the proposed development is not in the public interest because of the likely adverse impacts on the streetscape, undesirable amenity impacts on the locality and likely to promote an undesirable precedent for car stackers to be located within the front setback within an R2 low-density zone.

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

The subject application was notified to adjoining properties and the Hayes Precinct for 14 days where a number of issues were raised. Issues raised have been responded to within the assessment report where relevant.

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**Review of determination and right of appeal:**

Within six 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**

15 February 2022

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DATE

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Signature on behalf of consent authority  
ROBYN PEARSON  
**TEAM LEADER (ASSESSMENTS)**

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