

Sydney East Region Panel Determination Meeting

REASONS FOR REFUSAL

Reasons for refusal:

Height

- 1.(a) The proposed development is considered to be an excessive form of development and is inconsistent with the maximum height controls as specified under clause 4.3 of the Botany Bay Local Environmental Plan 2013 (*Environmental Planning and Assessment Act 1979 s79C(1)(a)(i), (b) and (c)*). [1]
- 1.(b) The proposed Clause 4.6 Exception to the height standard is not well founded and compliance with the development standard is not considered to be unreasonable or unnecessary in the circumstance of the case. (*Environmental Planning and Assessment Act 1979 Section 79C (1)(a)(i)*). [5] **This is reason is determinative**

FSR

- 2.(a) The proposed development is considered to be an excessive form of development and is inconsistent with the maximum floor space ratio controls as specified under clause 4.4 of the Botany Bay Local Environmental Plan 2013 (*Environmental Planning and Assessment Act 1979 s79C(1)(a)(i), (b) and (c)*). [2]
- 2.(b) A Clause 4.6 Exception has not been provided in support of the variation to the FSR standard within the B4 and R3 zones. (*Environmental Planning and Assessment Act 1979 s79C(1)(a)(i)*). [6] **This is reason is determinative**

Draft Amendment to BB LEP 2013

3. The proposed development in the **R3 zone** does not satisfy the draft amendment to the Botany Bay Local Environmental Plan 2013, Planning Proposal to amend Clause 4.4C, dated 27 January 2015, in terms of compliance with the Urban Design Clauses **and the removal of use of clause 4.6 with to variation to development standards relating to height and FSR** (Planning Proposal 2/2013, Department's reference: PP_2014_BOTAN_001_00). (*Environmental Planning and Assessment Act 1979 s79C(1)(a)(ii)*). [7]

[Note, words in bold added for clarity - not in original reasons for refusal]

OTHER REASONS HAVE BEEN RANKED IN ORDER OF IMPORTANCE:

Inconsistency with Master Plan

4. The total provision of open space is inconsistent with the conditions within DA-05/459/05 (**Parkgrove Master Plan**) and DA-12/210 (approved by way of s34) relating to minimum open space requirements. (*Environmental Planning and Assessment Act 1979 s79C(1)(c),(d) and (e)*). [9]

[Note, bold words in added for clarity - not in original reasons for refusal]

Inconsistency with SEPP 65

5. The proposed development is not considered to fulfil the objectives or requirements of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings regarding the proposals response in terms of its context, scale, built form, density, landscape, amenity and social dimensions (*Environmental Planning and Assessment Act 1979 Section 79C (1)(a)(i) and (b)*). [8]

Site Isolation

6. The applicant has not provided sufficient information to justify the isolation of No. 12 Pemberton Street in accordance with Part 4C.2.12. (*Environmental Planning and Assessment Act 1979 s79C(1)(b) and(c)*) [11]

Inconsistency with BB DCP 2013

7. The proposed development does not comply with the BBDCP 2013 as follows
 - (a) The amount of communal open space provided does not comply with Part 4C.2.8,
 - (b) Communal open space at podium level between Buildings B & C will receive no solar access on 21 June (mid-winter) and does not comply with Part 4C5.8, Control C3;
 - (c) The depth of the buildings do not comply with Part 4C.5.3, Control C2;
 - (d) The length of the buildings do not comply with Part 4C.2.3, Control C3;
 - (e) The depth of single aspect apartments do not comply with Part 4C.5.1, Control 6;
 - (f) The application has provided insufficient information demonstrating compliance with the dwelling mix controls at Part 4C.5.1, Control C2;
 - (g) The location and configuration of the open space is inconsistent with the controls and intent of Part 9C, Table 10;
 - (h) The proposed landscaping, site coverage and unbuilt upon area does not comply with Part 4C.2.7, Table 1;
 - (i) The setbacks within the B4 zone do not comply with Part 9C.5, Table 2;
 - (j) The setback of Building C to Rancom Street within the R3 zone does not comply with Part 4C.2.9, Control C8;
 - (k) The proposal does not comply with Part 4C.2.10, Control C2 and C3 relating to view corridors and consolidation of open space.

(*Environmental Planning and Assessment Act 1979 s79C(1)(a)(iii),(b) and (c)*)

Traffic Impacts

8. The applicant has not provided sufficient information to confirm whether traffic impacts have reasonably been addressed with respect to the proposed development. (*Environmental Planning and Assessment Act 1979 s79C(1)(b)(c)*); [12]

Environmental Impacts

9. The proposed development is likely to have an adverse environmental impact upon the natural and built environment in that the proposal will result in a form of development entirely inconsistent with the context, scale, built form and density of

the surrounding land/s and will adversely compromise the future development of this sub-precinct and its ability to respond to the emerging character of the locality. (*Environmental Planning and Assessment Act 1979 s79C(1)(b) and (c)*). [14]

Public Interest

10. The proposed development is not in the public interest due to the adverse environmental issues relating to the proposed development. (*Environmental Planning and Assessment Act 1979 s79C(1)(d) and (e)*); [13]

Reasons no longer required- already embodied in Reasons 1 and 2 above

Original Reason 3

The proposed development is inconsistent with the relevant objectives contained within Clause 4.3 Height of buildings of the Botany Bay Local Environmental Plan 2013. (*Environmental Planning and Assessment Act 1979 Section 79C (1)(a)(i)*)

Original Reason 4

The proposed development is inconsistent with the relevant objectives contained within Clause 4.4 Floor Space Ratio of the Botany Bay Local Environmental Plan 2013. (*Environmental Planning and Assessment Act 1979 Section 79C (1)(a)(i)*).

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