

**NOTICE TO APPLICANT OF DETERMINATION OF DEVELOPMENT APPLICATION
BY WAY OF REFUSAL**

Environmental Planning and Assessment Act, 1979
RA17/1000

TO:

Eastern Grey Developments Pty Ltd
114 Island Point Road
St Georges Basin NSW 2540

being the applicant(s) for RA17/1000 relating to:

**Anson St, ST GEORGES BASIN - Lot 1 - DP 1082382 &
Anson St, ST GEORGES BASIN - Lot 6 - DP 1082382**

REFUSED USE AND/OR DEVELOPMENT:

Concept Development Application for a mixed-use development comprising residential flat buildings and commercial development. The DA included 13 buildings up to 13m in height providing an estimated 88 x 2-bedroom apartments, 292 x 3-bedroom apartments, 2,233 square metres of commercial floor space and 783 parking spaces.

DETERMINATION DATE: 19-May-2022

REFUSAL DATE: 19-May-2022

Pursuant to Section 4.18 of the Act, notice is hereby given that the above application has been determined by **REFUSAL** by the Southern Regional Planning Panel for the reasons as outlined in Part A:

PART A: REASONS FOR REFUSAL

1. When considered against the critical matters that must be assessed for the subject concept development application (s4.22(5) of the EPA Act), the application failed to demonstrate that acceptable impacts and outcomes could be achieved in the following key areas:
 - a) Compliance with the respective environmental planning instruments applying to the site;
 - b) The visual compatibility of the development to surrounding development and neighbourhood character;
 - c) The impact of the development on surrounding properties and the public domain;
 - d) Social impacts of the development;
 - e) The streetscape and urban design issues relating to the building heights, footprints and separations, traffic, accessibility and safety; and
 - f) The shadow impacts of the development on the public domain and private properties.
2. Non-compliance with SEPP 65 in relation to the Design Quality Principles and Apartment Design Guide (s4.15(1)(a)(i) of the EPA Act). The Panel agreed that the Applicant had not demonstrated that future applications could comply with SEPP 65 specifically as follows:
 - a) The development does not meet the design quality principles per section 28(2)(b) of SEPP 65 (Principle 1: Context and Neighbourhood Character, Principle 2: Built form and scale; Principle 3: Density; Principle 4: Sustainability; Principle 5: Landscape; Principle 6: Amenity, Principle 7: Safety, Principle 8: Housing Diversity and social interaction and Principle 9: Aesthetics); and
 - b) The development fails to satisfy the preconditions of clause 30(2)(a) and (b) of SEPP 65, in that the development does not demonstrate that adequate regard has been given to:
 - i. the design quality principles; and
 - ii. the objectives specified in the Apartment Design Guide for the relevant design criteria (3A-1 Site Analysis; 3B-1 and 3B-2 — Orientation; 3C-1 and 3C-2 Public Domain Interface, 3D-3 Communal and Public Open Space, 3E-1 Deep Soil Zones, 3F-1 Visual Privacy, 3G-1 and 3G-2 Pedestrian Access and Entries, 3H-1 Vehicle Access, 3J-4 Bicycle and Car Parking, 4A-1, 4A-2 and 4A-3 Solar and Daylight Access, 4B-1 and 4B-2 Natural Ventilation, 4C-1 and 4C-2 Ceiling Heights, 4E-1 Private Open Space and Balconies, 4D-1 and 4D-2 Apartment Size and Layout, 4H-1 Acoustic Privacy, 4K-1 and 4K-2 Apartment Mix, 4L-1 and 4L-2 Ground Floor Apartments and 4W-1 Waste Management).
3. The proposed concept development application proposes a development which will be unable to comply with the maximum building height standard under clause 4.3 of SLEP 2014.
4. The proposed development does not meet the objectives of the SLEP 2014 B4 Mixed Use and R1 General Residential zones (s4.15(1)(a)(i) of the EPA Act).
5. The proposed development is not consistent with the objectives of SLEP 2014 clause 7.20 Development in the Jervis Bay Region as it is considered the development will have a detrimental impact on the locality and will not contribute positively to the natural and cultural values of the Jervis Bay Region (s4.15(1)(a)(i) of the EPA Act).
6. The proposed development is inconsistent with the Objectives, Performance Criteria and Acceptable Solutions as they relate to the following provisions of Chapter N23: St Georges Basin Village Centre Shoalhaven Development Control Plan 2014 (SDCP 2014) (s4.15(1)(a)(iii) of the EPA Act):
 - a) 5.1.1 Traffic, facilities, access, pedestrians, and car parking
 - b) 5.2 Civic Domain

- c) 5.3.1 Design and siting
 - d) 5.3.2 Landscaping
7. The development is likely to have adverse impacts on the built environment (s4.15(1)(b) of the EPA Act). The Panel determined that the:
- a) proposed building envelopes do not provide sufficient certainty for the consideration and determination of future development applications.
 - b) proposal for a three-storey residential flat building development of this scale is inconsistent with the zoning and height controls applying to the site;
 - c) proposal is incompatible and conspicuously out of character with the St Georges Basin village and future desired character of the village and is considered an over development of the site; and
 - d) consequently, the proposal is likely to have an adverse impact on the social amenity and way of life of the local community.
8. The site is not suitable for the development as proposed (s4.15(1)(c) of the EPA Act).
9. Subject to the reasons outlined above, the development is not in the public interest (s4.15(1)(e) of the EPA Act).

RIGHTS OF REVIEW AND APPEAL

Determination under Environmental Planning and Assessment Act, 1979

Division 8.2 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination a right to request the council to review its determination. The request and determination of the review must be undertaken within the prescribed period.

Division 8.3 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court which can be exercised within the prescribed period.

An appeal under Division 8.3 of the EP&A Act, 1979 by an objector may be made only within the prescribed period.

Approvals under Local Government Act, 1993

Section 100 of the Local Government Act, 1993 provides that an applicant may request Council to review its determination of an application.

Section 176 of the Local Government Act, 1993 provides that an applicant who is dissatisfied with the determination of the Council may appeal to the Land and Environment Court. The appeal must be made within the prescribed period.

GENERAL ADVICE

Privacy Notification

Personal information contained on this Development Consent and any associated documents will be published on Council's website as required by the Government Information (Public Access) Act 2009 (GIPAA).

SIGNED on behalf of Shoalhaven City Council:

A handwritten signature in black ink, appearing to be the name 'Rebecca Lockart', written in a cursive style.

Rebecca Lockart
Lead – Development Services
City Development