

## ANNEXURE 1 – DRAFT REASONS FOR REFUSAL

### The subject Development Application to be refused on the following grounds:

1. The proposed development is classed as 'Integrated Development' as the required General Terms of Agreement (GTA) has not been obtained from WaterNSW due to the proposed excavation levels of approximately 15m would be below the water table and during the construction stage dewatering may or would be required.

*(Section 4.46 of the Environmental Planning and Assessment Act (EP & A Act), 1979 and Section 90 of the Water Management Act (WMA), 2000).*

2. The proposed development does not satisfy the *Part 7 Additional local provisions – St Leonards South Area, Clause 7.1 – Development on land in St Leonards South Area objectives (a) & (b) and Clause 7.1(4)(d) of Lane Cove Local Environmental Plan (LCLEP) 2009:*

- To provide for high quality open space including communal open space and landscaped areas.
- To provide for efficient pedestrian circulation.
- To provide for appropriate building setbacks to facilitate communal open space between buildings.

*(Section 4.15(1)(a)(i),(b),(c) & (e) of the EP & Act, 1979).*

3. The proposed variation under *Part 7, Clause 7.1(3)(a) of LCLEP 2009* is not supported, where despite *Clause 4.3* of the same plan, the consent authority may only consent to development on land to which the above clause applies that would result in a building where the building height does not exceed the increased building height identified on the Incentive Height Buildings Map. Further, *Clause 4.6(8)(cb) – Exceptions to development standards* does not allow development consent to be granted for development what would contravene *Part 7, except Clauses 7.1(4)(e) and 7.2.*

The proposal contains balconies elements into the required green spine area and would be contrary to the maximum 2.5m development height development standard (coloured in blue on the map). The proposed variation to building height cannot be approved under the operation of the LEP.

*(Section 4.15(1)(a)(i),(b),(c) and (e) of the EP & A Act, 1979).*

4. The proposed development does not satisfy the *Part 7, Clause 7.6(3)(1) – Design Excellence - St Leonards South Area objective and Clause 7.6(4)(a),(b),(c),(f) and (g)(i),(iv), (v), (vi), (vii), (ix) & (x) of LCLEP 2009:*

- To deliver the highest standard of architectural, urban and landscape design to ensure design excellence would be achieved.
- To provide a high standard of design which is appropriate to the building type and location would be achieved.

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- The built form of the development would not improve the quality and amenity of the public domain.
- The development does not protect and enhance the natural topography or features.
- The proposal does not provide a 1m wide planting strip along the street frontage boundary at the same grade as the public domain footpath to mitigate the change in level between the public domain and the ground level of buildings and apartment terraces. Without this planting strip at the public domain streetscape/verge level, there would be a poor outcome to the interface with the public domain where retaining walls and balustrades are exposed to the street.
- The requirements of *Lane Cove Development Control Plan* have not been met. The proposal does not comply with the required number of storeys and building setback requirements.
- The design of the proposal has not responded to the development site's characteristics.
- The proposal's setbacks between the buildings, height, amenity and built form is not satisfactory.
- The proposal does not provide for massing and modulation in line with the DCP in relation to street wall heights, setbacks and the number of storeys.
- Street frontage heights do not comply with the DCP and would not provide an appropriate human scale.
- The proposed development would not ensure a high level of amenity for future residential and to the public domain.
- The visual impact of the development onto the pedestrian link and green spine area is not supported.
- The proposed setbacks and number of storeys involved would not provide for substantial improvements to the public domain.

(Section 4.15(1)(a)(i),(b),(c) & (e) of the EP & Act, 1979).

5. The proposed development has not satisfied the relevant matters for consideration under *Clause 6.1A – Earthworks of LCLEP 2009* where the potential groundwater impacts resulting from the proposed extensive excavation to accommodate the proposed basement levels have not been fully addressed.

(Section 4.15(1)(a)(i),(b),(c) & (e) of the EP & Act, 1979).

6. The proposed development is an overdevelopment on the subject development site and is inconsistent with the following aims, R4 High Density Residential and Building Height objectives of *LCLEP 2009*:

- *to establish, as the first land use priority, Lane Cove's sustainability in environmental, social and economic terms, based on ecologically sustainable development, inter-generational equity, the application of the precautionary principle and the relationship of each property in Lane Cove with its locality – Clause 1.2(2)(a) Aims of Plan.*
- *to preserve and, where appropriate, improve the existing character, amenity and environmental quality of the land to which this Plan applies in accordance with the indicated expectations of the community - Clause 1.2(2)(b) Aims of Plan.*

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- *in relation to residential development, to provide a housing mix and density that—*
  - *is compatible with the existing environmental character of the locality, and*
  - *has a sympathetic and harmonious relationship with adjoining development - Clause 1.2(2)(c)(ii) & (iii) Aims of Plan.*
- *to ensure development allows for reasonable solar access to existing buildings and public areas – Clause 4.3(1)(a) – Height of buildings.*
- *to ensure that privacy and visual impacts of development on neighbouring properties, particularly where zones meet, are reasonable - Clause 4.3(1)(a) – Height of buildings.*
- *to seek alternative design solutions in order to maximise the potential sunlight for the public domain - Clause 4.3(1)(d) – Height of buildings.*
- *to ensure that landscaping is maintained and enhanced as a major element in the residential environment – Zone R4 High Density Residential objective dot point 7.*

*(Section 4.15(a)(i),(b),(c) and (e) of the EP & A Act, 1979).*

7. The development does not comply with the following requirements of *Lane Cove Development Control Plan (LCDCP) 2009 Part C - Residential Localities*:

- *Number of storeys/part storey controls (Part 7 – Built Form Figure 10 – Height of Buildings (in storeys) and Control No. 7 – Height in Storeys under the ‘Building Envelope Table’ of Locality 8 – St Leonards South Precinct).*
- *Street and pedestrian link building setback controls (Part 7 – Built Form Control No. 1 and Figure 9 – Building Setbacks/Building Depth under the ‘Building Envelope Table’ of Locality 8 – St Leonards South Precinct) – Building Setbacks A and F.*
- *Rear building setback controls (Part 7 – Built Form Control No. 2 – Rear Building Setback under the ‘Building Envelope Table’ of Locality 8 – St Leonards South Precinct).*

The proposed development in particular the maximum 11 and 12 storey buildings coupled with the non-compliant street, pedestrian and green spine setbacks proposed is considered unsatisfactory, resulting in a poor built outcome which would affect the level of amenity for future residents of the South St Leonards precinct. The development does not satisfy the following DCP vision overall and built form objectives as follows:

- *The desired future character of the St Leonards South Precinct is for a liveable, walkable, connected, safe, Precinct which builds upon the transit and land use opportunities of St Leonards and Metro Stations and commercial centre – Part 2 Vision.*
- *To ensure that all new development will achieve design excellence, as well as providing suitable transition and interfaces to adjoining zones and open space – Part 3 Overall Objective, Objective 2.*
- *To facilitate a new, accessible network for pedestrians, cyclists and families that integrate and connect to functional community infrastructure and open space – Part 3 Overall Objective, Objective 5.*
- *To create an accessible, well-designed public open space network that provides a variety of recreation spaces (active and passive) and communal open space that is functional and shared by residents - Part 3 Overall Objective, Objective 6.*
- *Ensure changes in landform are accommodated - Part 7 Built Form. Objective 4.*

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- *Encourage a stepped-back building form in order to reduce building bulk and scale to the street. To facilitate street and front setback (deep soil) tree planting to further reduce apparent bulk and scale – Part 7 Built Form. Objective 8.*
- *Optimise solar access to all buildings, public domain and private open space – Part 7 Built Form. Objective 10.*
- *Activate and engage with the public domain in a manner which optimises public interaction and public safety – Part 7 Built Form. Objective 11.*

(Section 4.15(a)(iii), (b),(c) and (e) of the EP & A Act, 1979).

8. The proposal does not comply or address the following requirements *State Environmental Planning Policy (SEPP) No. 65* and the *Apartment Design Guide (ADG)* with respect to:

- *Context and Neighbourhood Character – SEPP 65 Principle 1* (the proposal does not respond to its intended context and neighbourhood character of South St Leonards (SLS) precinct).
- *Built Form and Scale – SEPP 65 Principle 2* (the proposed built form and scale does not reflect the anticipated built form specified in the LEP and DCP controls for the SLS precinct).
- *Density – SEPP 65 Principle 3* (the proposal relies on substantial variations to accommodate the proposed maximum density permitted and they do not provide for good planning outcomes in this instance).
- *Sustainability – SEPP 65 Principle 4* (lack of high level of landscaping to the public domain and groundwater impacts have not been fully addressed).
- *Landscape – SEPP 65 Principle 5* (the proposal does not provide for a high-quality landscape scheme to the public domain).
- *Amenity – SEPP 65 Principle 6* (the design does not provide for high levels of external amenity within the green spine and public domain areas which would have a sense of an unnecessary 'enclosing' impact on these spaces).
- *Aesthetics – SEPP 65 Principle 9* (the proposal fails to provide for a highly integrated aesthetic development in relation to its proposed built-form, landscape, public/private domain interfaces).
- *ADG Part 3 Siting the Development* (the proposal does not demonstrate good design decisions have been made in relation to the site-specific context).
  - *ADG Part 3B Orientation* (the proposal has not addressed the impacts of the proposal would have on the future intended streetscape due to the proposed variations to the number of storeys and setbacks).
  - *ADG Part 3C Public Domain Interface* (Not satisfactory due to the proposed variations to number of storeys and setbacks in addition to the poor landscaped outcome to the public domain).
  - *ADG Part 4M Facades* (the proposed façade does not provide for a high level of visual interest due to the breaches to number of storeys and setbacks).

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- *ADG Part 40 Landscape Design* (high quality landscaping has not been provided to the public domain).

*(Section 4.15(a)(i), (b),(c) and (e) of the EP & A Act, 1979).*

9. The proposal would unreasonably add to the intensity, bulk and scale of the development resulting in an overdevelopment of the site. The proposed development would have an unreasonable visual impact upon the future and envisioned South St Leonards precinct. The impacts on both the environmental, the built and social environments of the locality are unsatisfactory

*(Section 4.15(1)(a)(iii),(b),(c) and (e) of the EP & A Act, 1979).*

10. The subject Development Application should be refused because the proposal would represent as an overdevelopment and the overall design would not be suitable for the subject development site having regard to the adverse impacts that the proposed intensification would have on the newly adopted precinct.

*(Section 4.15(1)(a)(iii),(b),(c) and (e) of the EP & A Act, 1979).*

11. The subject Development Application should be refused primarily for the reasons provided above, and approval of the Development Application would be contrary to the public interest. Approval of the proposal would be contrary to the public interest as it would provide for an overdevelopment of the subject development site that would depart from the envisaged future development of this site located within a new high density residential precinct which should respond to and be informed by a more sensitive building design through:

- reduced height (number of storeys),
- complaint street, pedestrian link and green spine building setbacks, and
- enhanced public domain landscaping.

*(Section 4.15(1)(a)(iii),(b),(c), (d) and (e) of the EP & A Act, 1979).*

11. The subject Development Application should be refused because approval of the proposed development would set an undesirable precedent for a similar inappropriate development within the South St Leonards precinct.

*(Section 4.15(1)(a)(iii),(b),(c), (d) and (e) of the EP & A Act, 1979).*