

ATTACHMENT 1: REASONS FOR REFUSAL

PANEL REFERENCE: PPSSNH-449
DA NUMBER: DA297/23
LGA: North Sydney Council
ADDRESS: 617-621 Pacific Highway, St Leonards

1. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposal is contrary to the objectives of the aims of plan of North Sydney Local Environmental Plan 2013 pursuant to Clause 1.2 in that the proposal is inconsistent with:
 - (a) The proposal does not provide development that is appropriate to its context and is does not enhance the amenity of the North Sydney community and environment (Clause 1.2(2)(a));
 - (b) The proposal is not compatible with the desired future character in terms of its setback to the eastern boundary (Clause 1.2(2)(b)(i));
 - (c) The proposal adversely affects the residential amenity of adjoining properties in terms of solar access and view sharing (Clause 1.2(2)(c)(i));
2. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposal is inconsistent with the objectives of the E2 Commercial Centre zone pursuant to Clause 2.3 of the North Sydney Local Environmental Plan 2013 in that:
 - (a) The proposal is not consistent with the Council's strategic planning or residential development in the area.
 - (b) The proposal fails to minimise the adverse effects of development on residents and occupiers of existing and new development.
3. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the design quality of the proposal when evaluated in accordance with the design quality principles is unacceptable, contrary to Clause 147(1) of State Environmental Planning Policy (Housing) - Design Quality of Residential Apartment Development. Consent must not be granted as the proposal does not demonstrate that adequate regard has been given to the design quality principles. In particular, the proposal is inconsistent with the following design quality principles:
 - (a) Principle 1 - Current and Neighbourhood Character: The proposed development does not respect the existing context, comprising the spatial; and visual qualities. And fails to conform to the build form controls.
 - (b) Principle 2 - Built Form and Scale: The bulk and scale of the proposed development is not in keeping with the desired future character of the locality. The eastern setback variation to the built form controls will have additional adverse impacts on the surrounding locality
 - (c) Principle 6 - Amenity: The proposal results in an unreasonable level of amenity for surrounding apartments, in the context of the planning controls.
4. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as concurrence has not been provided, the consent authority cannot be satisfied that the rail authority has taken into account the provisions of Clause 2.99(4) of State Environmental Planning Policy (Transport and Infrastructure) 2021.

5. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as there are numerous inconsistencies with the Apartment Design Guide pursuant to Clause 147(1) of State Environmental Planning Policy (Housing) which result in an unsatisfactory impact to amenity and adjoining properties, including the following:
 - (a) Part 2F and 3F: The side setback from 601 Pacific Highway boundary is six metres for the full height of the residential component of the building. The setback above four levels is required to be nine metres and 12m over 9 storeys to provide building separation regardless of whether the adjacent building (proposed at similar height) is residential or commercial. The eastern setback fails to provide adequate building separation distances that are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy and fails to ensure that new development is scaled to support the desired future character with appropriate massing and spaces between building.
6. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as the proposal is inconsistent with various parts of Part A, B and C of the North Sydney Development Control Plan 2013 in that:
 - (a) The proposed development does not satisfactorily respond to Part B Section 2.1.1 General Objectives - O8, O10, Q13 as it does not provide an acceptable level of amenity to adjoining and nearby properties.
 - (b) The proposed development does not satisfactorily respond to P2 in Part B Section 2.3.7 - Views. As a result of the non-compliant eastern side setback view will be obstructed.
 - (c) The proposed development does not satisfactorily respond to P2 in Part B Section 2.3.8 - Solar Access. Solar access to residential properties to the south would be significantly reduced.
 - (d) The design of the proposed development is not consistent with the provisions of Part B Section 2.4.1 – Context, as the proposal fails to ensure that the site layout and building design responds to the existing characteristics, opportunities and constraints of the site and within its wider context
 - (e) The form massing and scale is inconsistent with O4 of Part C Section 3.1.3.2 as the proposal fails to provide a suitable eastern side setback at the upper levels to afford daylight and ventilation between buildings.
 - (f) The eastern side setback is not in accordance with Part C Section 3.1.3.5 - O1, O2, O3, O5, O6, O7, P1, P2 and Figure C-3.1-5.
7. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as the proposal is inconsistent with the relevant Australian Standards for car parking and service vehicle facilities and does not comply with the NSDCP 2013 Part B, Section 10 in that:
 - (a) The number proposed accessible car parking spaces do not comply with the relevant requirements of AS 2890.6-2022 and Clause 10.3 of the NSDCP 2013 Part B, Section 10.
 - (b) The proposed development does not satisfactorily respond to Part B Section 10.4 – loading and servicing facilities.

8. The proposed development is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as the proposal is inconsistent with the waste management objectives and requirements of Section 19 Waste Minimisation and Management of the North Sydney Development Control Plan 2013 in that the proposed waste management arrangements are unacceptable and do not adequately demonstrate compliance with the requirements including:
 - (a) A temporary bin holding area for the residential waste bins has not been provided for collection of garbage and recycling bins that is of sufficient size to accommodate the required garbage and recycling bins is required to be provided off the street and within 2 metres of the street alignment.
 - (b)
 - (c) It has not been demonstrated that the proposed on-site loading bay arrangements are capable of accommodating Council's waste collection vehicle.
9. The proposal is unsatisfactory having regard to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 as the development will cause adverse impacts upon the built environment with respect to the impact upon the surrounding properties.
10. The proposed development is unsatisfactory having regard to Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 in that the proposed development in its current form is not suitable for the site.
11. The proposed development is considered unacceptable pursuant to the provisions of Section 4.15(1) (e) of the Environmental Planning and Assessment Act 1979 as the proposal in its current form given its siting, location, design, bulk and scale and massing, is not in the public interest as it is inconsistent with the relevant planning controls in relation to the adverse impacts on the amenity of adjoining properties. The proposal also lacks good urban design and will negatively affect the character and nature of the neighbourhood. It is considered to be an inappropriate outcome for the site and will establish an undesirable precedent in the area which will not be in the public interest.