

Resolution of Local Planning Panel

17 July 2019

Item 3

Development Application: 810-812A George Street, Haymarket - D/2019/120

The Panel refused consent for Development Application No. D/2019/120 for the following reasons as per the Council Officer's report and subject to the addition of reason (I) as recommended in late advice provided by Council staff:

- (A) The development, by way of its height, bulk, form, materials and location will have an adverse impact on the visual setting and heritage significance of the Christ Church St Laurence, associated buildings, streetscape and Haymarket/Chinatown Special Character Area. The development is therefore contrary to the following planning controls:

Sydney Local Environmental Plan 2012

- (i) Clause 1.2(2)(k) - to conserve the environmental heritage of the City of Sydney
- (ii) Clause 5.10(4) - effect of proposed development on heritage significance

Sydney Development Control Plan 2012

- (iii) Section 2.1.3 - Haymarket/Chinatown Special Character Area
 - (iv) Section 3.9.5 - Heritage items
 - (v) Section 3.9.13 - Excavation in the vicinity of heritage items and in heritage conservation areas
- (B) The development exceeds the maximum 50 metre height of buildings development standard by 2.2 metres (4.4%) pursuant to Clause 4.3 of the Sydney Local Environmental Plan 2012. A request to vary the development standard has been made pursuant to Clause 4.6 of the Sydney Local Environmental Plan 2012. The requested variation is not supported, as the applicant's written request has not adequately addressed the matters required to be addressed by Clause 4.6(3) of the Sydney Local Environmental Plan 2012. The proposed development is not in the public interest under Clause 4.6(4)(ii) because it is inconsistent with objectives (a), (b) and (c) of the height of buildings development standard.

- (C) The development, by way of its height, bulk, form, landscape details, overshadowing and location fails to achieve design excellence. In particular, the development will:
- adversely impact the heritage significance of adjoining properties in this special precinct of the Haymarket/Chinatown Special Character Area;
 - result in adverse wind effects and overshadowing on the adjoining childcare centre;
 - not provide passive sun shading and passive natural ventilation within the design;
 - not ensure the success of the proposed landscaping;
 - not include public art; and
 - fail to provide adequate floor to floor heights.

The development is therefore contrary to the following planning controls:

Sydney Local Environmental Plan 2012

- (i) Clause 1.2(2)(c) - to promote ecologically sustainable development
- (ii) Clause 1.2(2)(j) - to achieve a high quality urban form by ensuring that new development exhibits design excellence and reflects the existing or desired future character of particular localities
- (iii) Clause 6.21(4)(a) - whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved
- (iv) Clause 6.21(4)(b) - whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain
- (v) Clause 6.21(4)(c) - whether the proposed development detrimentally impacts on view corridors
- (vi) Clause 6.21(4)(d)(i) - the suitability of the land for development
- (vii) Clause 6.21(4)(d)(iii) - any heritage issues and streetscape constraints
- (viii) Clause 6.21(4)(d)(v) - the bulk, massing and modulation of buildings
- (ix) Clause 6.21(4)(d)(vii) - environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity
- (x) Clause 6.21(4)(d)(viii) - the achievement of the principles of ecologically sustainable development
- (xi) Clause 6.21(4)(d)(x) - the impact on, and any proposed improvements to, the public domain
- (xii) Clause 6.21(4)(d)(xi) - the impact on any special character area

(xiii) Clause 6.21(4)(d)(xiii) - excellence and integration of landscape design

Sydney Development Control Plan 2012

(xiv) Section 2.1.3 - Haymarket/Chinatown Special Character Area

(xv) Section 3.1.5 - Public art

(xvi) Section 3.2.6 - Wind effects

(xvii) Section 4.2.1.2 - Floor to ceiling and floor to floor heights

(xviii) Section 4.2.3.4 - Design features to manage solar access

(xix) Section 4.2.3.5 - Landscaping

(xx) Section 5.1.2.2 - Side and rear setbacks

(xxi) Section 5.1.2.3 - Setbacks for buildings adjoining or fronting lanes

- (D) The application is not accompanied by a detailed environmental site investigation as recommended within the preliminary site investigation undertaken. The application therefore fails to determine whether the site is contaminated and whether it is or can be made suitable for the proposed use. The development is therefore contrary to Clause 7 of the State Environmental Planning Policy 55 - Remediation of Land.
- (E) The application has not provided sufficient information to satisfy Transport for NSW (a concurrent authority) that the development can be undertaken without adverse impacts to the interim rail corridor located under the site. The development is therefore contrary to Section 88 of the State Environmental Planning Policy (Infrastructure) 2007.
- (F) The development will not accommodate on-site servicing for waste collection, deliveries. The development therefore externalises demand and burdens the surrounding street network. The development is therefore contrary to the following planning provisions:

Sydney Local Environmental Plan 2012

(i) Clause 1.2(2)(c) - to ensure that the pattern of land use and density in the City of Sydney reflects the existing and future capacity of the transport network and facilitates walking, cycling and the use of public transport

Sydney Development Control Plan 2012

(ii) Section 3.11.6 - Service vehicle parking

(iii) Section 3.14.1 - Waste and Recycling Management Plans

(iv) Section 3.14.2 - Construction and demolition waste

(v) Section 3.14.3 - Collection and minimisation of waste during occupation

(vi) Section 4.2.3.6 - Waste and recycling management

- (G) The development fails to provide adequate communal facilities and management practices to meet the demands of guests and protect the amenity of the surrounding area. The development is therefore contrary to the following planning provisions:

Sydney Local Environmental Plan 2012

- (i) Clause 1.2(2)(h) - to enhance the amenity and quality of life of local communities

Sydney Development Control Plan 2012

- (ii) Section 4.4.8.1 - Visitor accommodation - General

- (iii) Section 4.4.8.4 - Additional provisions for backpacker accommodation

- (H) The application does not adequately consider construction impacts in particular noise, dust and traffic impacts. The development is therefore contrary to the following planning provisions:

Environmental Planning and Assessment Act 1979

- (i) Section 4.15(1)(b) - the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

- (l) The application proposes a floor space ratio of 7.89:1 which exceeds the maximum permitted floor space ratio of 7.5:1 pursuant to Clause 4.4 of the Sydney Local Environmental Plan 2012. A request to vary the maximum permitted floor space ratio in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012 has not be submitted. As such, the development cannot be granted in accordance with Clause 4.4(2) of the Sydney Local Environmental Plan 2012.

- (J) For the reasons above, the development is not in the public interest.

Carried unanimously.

D/2019/120