

Resolution of Central Sydney Planning Committee

22 October 2020

Item 4

Development Application: 499-501 Kent Street, Sydney - D/2019/969

Moved by the Chair (the Lord Mayor), seconded by Councillor Thalys -

It is resolved that consent be refused for Development Application No. D/2019/969 for the following reasons:

- (A) The proposed development does not comply with several design quality principles stipulated in the *State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development*, and results in several non-compliances in the accompanying Apartment Design Guide (ADG), as follows:
- (i) Separation - the proposed building envelope and indicative scheme does not comply with the minimum separation distances between habitable openings as required by Parts 2F and 3F of the ADG.
 - (ii) Cross Ventilation - Part 4B of the ADG requires that a minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated. The western setback causes a non-compliance with this control, with the westernmost apartments not achieving natural cross ventilation.
 - (iii) Communal Open Space - Part 3D of the ADG specifies that communal open space has a minimum area equal to 25% of the site, and that 50% of this space receive direct sunlight for 2 hours midwinter. The indicative scheme provides for approximately 295sqm (36%) of communal open space, however there are several issues associated with the amenity and useability of these spaces.
 - (iv) Floor to Ceiling Heights - Part 4C of the ADG requires a floor to ceiling height of 2.7m is provided for habitable rooms. The indicative scheme shows floor to floor heights of 3.05m which is not considered sufficient to accommodate 2.7m floor to ceiling heights.
 - (v) The amended proposal was not accompanied by an updated Design Verification Statement, which is required in accordance with Clause 50(1A) of the *Environmental Planning and Assessment Regulation 2000*.

- (vi) Overall, the amended building envelope and indicative scheme shows that a residential development may not be suitable for the site, with the achievement of key ADG requirements unable to be demonstrated.
- (B) The development is not accompanied by adequate documentation to confirm that the site is suitable or capable of being made suitable for its intended land use, in accordance with the requirements of State Environmental Planning Policy No. 55 - Remediation of Land.
- (C) The proposed development fails to demonstrate design excellence in accordance with Clause 6.21 of Sydney LEP 2012. The building envelope and indicative scheme does not provide for a tower that achieves an acceptable relationship with other towers in terms of separation, setbacks, amenity and urban form, and thus is contrary to Clause 6.21(4)(d)(iv) and (vii) of the Sydney LEP 2012. Therefore, the proposal is not considered to achieve design excellence.
- (D) The proposal results in an exceedance of the Floor Space Ratio (FSR) permissible under Clauses 4.4 and 6.4 of the Sydney LEP 2012, with the inclusion of an additional 10% FSR for design excellence under Clause 6.21 of the Sydney LEP 2012. The quantum of floor space and gross floor area are not approved as part of a concept application, and a competitive design process has not been undertaken.
- (E) Insufficient information has been provided to enable the assessment of the proposal to be completed, including:
 - (i) Detailed Environmental Site Investigation (DESI) – A DESI has not been submitted, which is required to confirm that the site is suitable or capable of being made suitable for its intended land uses in accordance with SEPP 55.
 - (ii) Solar access - The information submitted is not coordinated so it is difficult to determine if the indicative scheme achieves adequate solar access requirements.
 - (iii) Flooding and floor levels - The plans and flood assessment report require further coordination with regard to flood planning levels.
 - (iv) Landscape scheme - The submitted landscape statement is very detailed, which negates the intent of a landscape strategy at concept stage, and a revised landscape statement is required.
 - (v) Waste Management Plan (WMP) - An insufficiently detailed waste management plan has been provided.
- (F) For the reasons listed above, the development is not considered to be in the public interest pursuant to Section 4.15(1) of *Environmental Planning and Assessment Act 1979*.

Carried unanimously.

D/2019/969