

Resolution of Local Planning Panel

1 September 2021

Item 3

Development Application: 22-32 Botany Road, Alexandria - D/2021/292

The Panel refused consent for Development Application No. D/2021/292 for the reasons outlined below.

Reasons for Decision

The application was refused for the following reasons:

- (A) The proposed height exceeds the maximum permitted by the height development standard by up to 21.3%. The additional height and resultant bulk of the building means that the development will overshadow neighbouring residential properties and result in a more imposing building. As such, the development does not comply with:
 - (i) Clause 4.3 of the Sydney Local Environmental Plan 2012, including objective (a)
 - (ii) Clause 4.15(1)(e) of the Environmental Planning and Assessment Act 1979
 - (iii) Clause 6.21 of the Sydney Local Environmental Plan 2012
 - (iv) Section 4.21 of the Sydney Development Control Plan 2012.
- (B) The proposal does not comply with Clause 4.6 of the Sydney Local Environmental Plan 2012 in relation to the written request for a variation to the height development standard contained in Clause 4.3 of the LEP, as it is not considered to be in the public interest.
- (C) The proposed floor space ratio exceeds the maximum permitted by the floor space ratio standard by up to 11.1%. The additional bulk and scale of the building is incongruous with the streetscape, incompatible with the character of the local area and represents an overdevelopment of the site.
- (D) There has been no written request submitted to justify the floor space ratio breach pursuant to Clause 4.6 of the Sydney Local Environmental Plan 2012.

- (E) Insufficient contamination information has been provided with the proposal. In the absence of clarity of these issues, the development has not demonstrated the site can be made suitable for the proposed uses. In this regard, the development does not comply with:
- (i) Clause 7(1)(b) of State Environmental Planning Policy No 55 - Remediation of Land
 - (ii) Clause 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*
 - (iii) Clause 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*
 - (iv) Clause 6.21 of the *Sydney Local Environmental Plan 2012*.
- (F) The proposal does not respect the character and fine grain of the existing buildings and streetscape. It does not comply with Clause 30A of the State Environmental Planning Policy (Affordable Rental Housing) 2009 as it replaces a fine grain, low-rise street context with a single, monolithic building with bulk and scale and amenity impacts, negatively impacting the streetscape. The proposal is also inconsistent with:
- (i) Clause 29(1) of the State Environmental Planning Policy (Affordable Rental Housing) 2009, as the proposal exceeds the floor space ratio development standard set by the Sydney Local Environmental Plan 2012 and the additional floor space provided under Clause 29(1) of the SEPP
 - (ii) Clause 29(2)(a) of the State Environmental Planning Policy (Affordable Rental Housing) 2009, as the proposal exceeds the height development standard set by Clause 4.3 of the Sydney Local Environmental Plan 2012.
- (G) The proposed development fails to provide for an appropriate interface with the public domain. The proposal includes retail development with a floor level lower than the adjoining footpath, inadequate floor to ceiling heights at ground floor, convoluted residential access, an excessive vehicular crossover to Spencer Lane, and no activation of either Chapel or Spencer lanes, failing to comply with:
- (i) Clause 2.13.13 of the Sydney Development Control Plan 2012
 - (ii) Clause 3.1.1.3(2) of the Sydney Development Control Plan 2012
 - (iii) Clause 3.2.2(7) of the Sydney Development Control Plan 2012
 - (iv) Clause 3.11.11(7) of the Sydney Development Control Plan 2012
 - (v) Clause 4.2.1.2(1)(b) of the Sydney Development Control Plan 2012
 - (vi) Clause 4.4.1.6(2)(a) the Sydney Development Control Plan 2012

- (H) The proposal results in substandard amenity for future residents as it has not adequately addressed matters required including provision of facilities and amenities, visual and acoustic privacy impacts, and adequate servicing arrangements. The proposal does not comply with:
- (i) Clause 102 of the State Environmental Planning Policy (Infrastructure) 2007
 - (ii) Clause 4.2.1.2(4) of the Sydney Development Control Plan 2012
 - (iii) Clause 4.2.4(10) of the Sydney Development Control Plan 2012
 - (iv) Clause 4.4.1.6(1)(a) of the Sydney Development Control Plan 2012
 - (v) Clause 4.4.1.2(1) of the Sydney Development Control Plan 2012
 - (vi) Clause 4.4.1.4 of the Sydney Development Control Plan 2012
 - (vii) Clause 4.4.1.5(2) of the Sydney Development Control Plan 2012
 - (viii) Clause 2.5 of the City of Sydney's Guidelines for Waste Management in New Developments
- (I) The proposal results in adverse amenity impacts to surrounding properties due to inadequate building separation between the proposed boarding house and surrounding buildings (caused by insufficient setbacks), and the proposed development's bulk and scale. The proposal results in adverse visual and acoustic privacy and overshadowing impacts, and does not comply with:
- (i) Clause 6.21 of the Sydney Local Environmental Plan 2012
 - (ii) Clause 4.4.1.6(2)(b) of the Sydney Development Control Plan 2012
 - (iii) Clause 4.2.3.1 of the Sydney Development Control Plan 2012.
- (J) The development in its current form does not demonstrate design excellence as it fails to deliver a high standard of architectural, urban and landscape design. The form and external appearance of the proposed development will detract from the quality and amenity of the public domain and the proposal provides an inappropriate contextual response to the streetscape. The development does not demonstrate whether the ecologically sustainable development targets have been implemented within the development. The access to the site does not demonstrate how pedestrian amenity will be prioritised. In this regard, the development does not meet Clause 6.21 of Sydney Local Environmental Plan 2012.
- (K) The proposed vehicular parking arrangements are contrary to Section 3.11 of the Sydney Development Control Plan 2012, in that car and motorcycle parking is not preferred, insufficient bicycle parking has been provided, and servicing of the site has not been adequately detailed. The proposal is not consistent with Clause 6.21 of the Sydney Local Environmental Plan 2012 with regard to pedestrian, cycle and service access.

- (L) The proposed development does not achieve adequate deep soil and does not demonstrate the development can achieve 15% canopy cover at 10 years post-completion. The resilience, suitability and longevity of the garden proposed has not been demonstrated. The development does not display excellence and integration of landscape design and is inconsistent with:
 - (i) Clause 6.21 of the Sydney Local Environmental Plan 2012
 - (ii) Clause 3.5.2(2) of the Sydney Development Control Plan 2012
 - (iii) Clause 4.2.3.6 of the Sydney Development Control Plan 2012
 - (iv) Sydney Landscape Code Volume 2.

- (M) The proposed development does not provide adequate waste storage areas or sufficiently detail the servicing of the site. The proposal does not comply with:
 - (i) Section 3.14 of the Sydney Development Control Plan 2012
 - (ii) The City of Sydney's Guidelines for Waste Management in New Developments 2018.

Carried unanimously.

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