

Resolution of Local Planning Panel

7 November 2018

Item 3

Development Application: 278 Palmer Street, Darlinghurst

The Panel refused Development Application No. D/2017/1332 for the following reasons, subject to the deletion of reason (O) shown in ~~strike through~~ below and the renumbering of remaining reasons:

- (A) The proposal exceeds the height in metres development standard and therefore fails to comply with Clause 4.3 and Clause 4.6 of the Sydney Local Environmental Plan 2012 (LEP) as a Clause 4.6 request to vary a development standard has not been provided. The consent authority is unable to be satisfied that the variations are acceptable and therefore consent cannot be granted in this instance;
- (B) The proposal exceeds the maximum height in storeys control as per the Sydney Development Control Plan 2012 (DCP) and as such presents an inappropriate built form in relation to adjoining development and to the Heritage Conservation Area and East Sydney Locality in which it is situated. The proposal fails to comply with Principle 1 of SEPP 65;
- (C) The proposal does not provide the required minimum internal areas for Units 3, 6, and 7 (50sqm), and therefore does not comply with Objective 4D-1 of the ADG and Principle 6 of SEPP 65. As a Clause 4.6 request to vary a development standard has not been provided the consent authority is unable to be satisfied that the variations are acceptable and therefore consent cannot be granted in this instance;
- (D) The proposal does not provide adequate deep soil or communal open space required as per Objectives 3D-1 and 3E-1 of the ADG and Principles 5 and 6 of SEPP 65;
- (E) The proposal does not provide adequate solar access with 60% of the proposed units receiving adequate sunlight to habitable rooms, primary windows and private open space, in contradiction to Objective 4A-1 of the ADG and Principle 6 of SEPP65;
- (F) The proposal does not provide adequate amenity for future occupiers as it fails to comply with Part 4.2.3.2 of the DCP and Objective 4B-1 of the ADG which requires lightwells to not be the only source of daylight to a habitable room;

- (G) The proposal does not provide adequate private open space as it fails to comply with Objective 4E-1 of the ADG and Principle 6 of SEPP 65;
- (H) The proposal does not provide adequate amenity for future occupiers as it fails to comply with Part 4.2.3.3 of the DCP which requires common corridors to be at least 2m wide in front of the lifts;
- (I) The proposal does not provide adequate ventilation in contradiction to Objective 4B-1 of the ADG and Principle 6 of SEPP 65 as there are windows to the light well which are provided as the only air source to habitable rooms.
- (J) The proposal does not provide adequate separation distance between the units on the site and to existing residential properties in contradiction to Objective 3F-1 of the ADG and as such would likely have adverse visual privacy impacts to surrounding residents;
- (K) The proposal results in adverse outlook impacts to surrounding properties and therefore does not comply with Part 4.2.3.10 of the DCP;
- (L) The proposal results in adverse acoustic privacy impacts with regards to the proposed roof terrace, and an inadequate Demolition, Excavation, Construction Noise Management Plan has been submitted. Therefore the proposal does not comply with Part 4.2.3.11 of the DCP;
- (M) The proposal results in additional overshadowing of the neighbouring dwellings to the south and east of the site, where these dwellings already receive less than 2 hours solar access on 21 June to habitable room windows and private open space. Shadow diagrams in elevation have not been provided to include shadows on all affected window openings therefore the applicant has failed to demonstrate the proposal will comply with the minimum requirements of Part 4.2.3.7 of the DCP in relation to solar access for the neighbouring properties;
- (N) The proposal does not comply with the provisions of Parts 3.9.6 and 3.9.7 of the DCP which requires new development to respect neighbouring buildings and the character of the area and alterations and additions to contributory buildings to be designed so as to respect significant original or characteristic built form. The proposal does not adequately satisfy Clause 5.10 of the LEP which is to conserve the heritage significance of Heritage Conservation Area;
- ~~(O) The proposal fails to adequately satisfy the objectives of the R1 General Residential zone as outlined in the Land Use Table of the LEP as it does not maintain the existing land use pattern of predominantly residential uses;~~
- (O) Overall the proposed development is inconsistent with the provisions, objectives and aims of Council's planning controls, and, if approved, would provide new dwellings that are poorly modulated in relation to surrounding development and that would provide low amenity for their occupants and the occupants of neighbouring dwellings. The proposal does not enhance the amenity and quality of life of the local community, does not achieve a high quality urban form, does not exhibit design excellence and does not conserve the environmental heritage of the City of Sydney and as such, does not satisfy the provisions of Clauses 1.2(2)(h), 1.2(2)(j) and 1.2(2)(k) of the LEP;
- (P) The proposal does not comply with Clause 6.21 of the LEP or Principle 9 of SEPP 65 as design excellence and a good design has not been achieved. The proposal fails to respond to the existing or future local context;

- (Q) Therefore, as a matter for consideration pursuant to Clause 4.15(1)(e) of the Environmental Planning and Assessment Act 1979 (the Act), the proposed development is not in the public interest and is inconsistent with key objects of the Act that are to promote good design and amenity of the built environment and to promote the proper construction of buildings, including the protection of the health and safety of their occupants.

The Panel deleted recommended reason (O) as it did not make sense as the proposal is residential in nature.

Carried unanimously.

D/2017/1332