

**Item 11.****Development Application: 14-26 Wattle Street, Pyrmont - D/2019/649**

File No.: D/2019/649

**Summary**

<b>Date of Submission:</b>	21 June 2019
<b>Applicant:</b>	Landream Pyrmont Pty Ltd
<b>Architect/Designer:</b>	Tzannes
<b>Developer:</b>	Landream Pyrmont Pty Ltd
<b>Owner:</b>	Council of the City of Sydney
<b>Cost of Works:</b>	\$221,892,000
<b>Zoning:</b>	Zone B4 - Mixed Use (development is permitted with consent)
<b>Proposal Summary:</b>	<p>Concept development application for Integrated Development under the Water Management Act 2000, as the proposal will require aquifer interference approval, and under the Roads Act 1993, as the proposal includes works to a classified road.</p> <p>The application includes a 30.88m high building envelope. Indicative land uses include residential, commercial, retail, child care and recreational facilities.</p> <p>The application has been assessed by an independent external planning consultant (Sandra Robinson, Consultant Planner at Robinson Urban Planning) as the City of Sydney is the land owner.</p> <p>The independent assessment report is provided at Attachment A.</p> <p>The assessment of the application by the independent planner concludes that the application cannot be supported and it is recommended that the development be refused.</p>

**Development Controls:**

- (i) State Environmental Planning Policy No. 55 - Remediation of land
- (ii) State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development
- (iii) State Environmental Planning Policy (Infrastructure) 2007
- (iv) State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- (v) State Environmental Planning Policy (Educational Establishments and Child Care Centres) 2017
- (vi) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (deemed SEPP)
- (vii) Apartment Design Guide 2015
- (viii) Sydney Local Environmental Plan 2012
- (ix) Sydney Development Control Plan 2012

**Attachments:**

- A. Independent Assessment Report
- B. Concept Envelope Plans
- C. Indicative Reference Design Plans
- D. Clause 4.6 Written Request
- E. Submissions (Confidential)

## Recommendation

It is resolved that consent be refused for Development Application No. D2019/649 for the following reasons:

- (A) Contrary to clause 4.6 of Sydney Local Environmental Plan 2012 (SLEP 2012), the applicant's clause 4.6 written request to vary the clause 4.3 Height of buildings standard does not demonstrate:
  - (i) that compliance with the height of buildings standard is unnecessary or unreasonable in the circumstance of the case, as per clause 4.6(4)(a)(i) of SLEP 2012;
  - (ii) that there are sufficient environmental planning grounds to justify contravening the development standard, as per clause 4.6(4)(a)(ii) of SLEP 2012;
  - (iii) that the objectives of the height of buildings standard at clause 4.3(1) of SLEP 2012 are achieved or that the objectives of the standard would be thwarted by compliance (and as a consequence the proposed development is not considered to be in the public interest); and
  - (iv) that the development presents a better outcome for and from the development as required by the objective at clause 4.6(1)(b) of SLEP 2012.
- (B) The Concept Development Application (DA) does not satisfy section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposed development does not satisfy State Environmental Planning Policy 65 - Design Quality of Residential Flat Development (SEPP 65), particularly the following provisions:
  - (i) SEPP 65 Design Quality: Principle 1: Context and Neighbourhood Character, Principle 2: Built Form and Scale, Principle 3: Density, Principle 5: Landscape and Principle 6: Amenity; and
  - (ii) Solar access, natural cross ventilation, noise, deep soil, communal open space and building separation design criterion in the Apartment Design Guide (ADG).

Given the above, the Concept Envelope Plans and Indicative Reference Scheme do not adequately address residential amenity, have not demonstrated that the proposed mix of uses can be supported on the site and provide insufficient guidance for the competitive design process and Detailed Design DA.

- (C) The Concept DA does not satisfy section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposed development is inconsistent with SLEP 2012, particularly the following provisions:
  - (i) Clause 4.3 Height of buildings as the proposed development exceeds the 27m height of buildings standard;
  - (ii) Clause 4.6 Exceptions to development standards (see (A) above);

- (iii) Clause 5.10 Heritage conservation as the height of the Jones Block is not consistent with the immediate context of the site comprising the heritage listed terrace houses at 282 – 318 Jones Street, the Winchcombe Carson Wool store at 28-48 Wattle Street and the Harbour Mill Apartments at 280 Jones Street (which provides a deliberate reduction in height adjoining the lower scale heritage listed terraces);
  - (iv) Clause 6.21 Design excellence as the proposed development does not adequately address the matters under clause 6.21(4) of SLEP 2012;
  - (v) Clause 7.15 Flooding planning as the Concept Envelope Plans do not show flood planning levels; and
  - (vi) Clause 7.20 Development requiring a site specific DCP as the proposed development does not adequately address the matters under clause 7.20(4) of SLEP 2012.
- (D) The Concept DA does not satisfy section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 as the proposal is inconsistent with Sydney Development Control Plan 2012 (SDCP 2012), particularly the following provisions:
- (i) The Locality Statement at section 2.12.2 Pyrmont as the proposed development does not respond to the detail and character of heritage items near the site, provide a high quality public domain along Jones Street, provide easily identifiable building entrances, show the location of driveway entries, respond to and complement heritage items and maintain views and vistas from the public domain;
  - (ii) Sections 3.1 and 3.2 in relation to the Public Domain as the proposed development does not provide appropriate public domain improvements. In particular, inadequate public domain improvements are proposed to Jones Street, extensive civil works are required to achieve the proposed Jones Street tree planting and the cantilevered footway, public views from Fig Lane Park will be obstructed and the scale of development does not relate to neighbouring buildings in Jones Street;
  - (iii) Section 3.5 - Urban Ecology as the proposed development does not retain the existing cliff face on the site as a habitat feature, contrary to SDCP 2012, s. 3.5.1(2);
  - (iv) Section 3.7 Water and Flood Management as inadequate information is shown on the Concept Envelope Plans to demonstrate compliance with the City's Interim Floodplain Management Policy;
  - (v) Section 3.9 Heritage (see (A) above);
  - (vi) Section 3.11 Transport and Parking as the Concept Envelope Plans do not show the location of driveways;
  - (vii) Section 3.13 Social and Environmental Responsibilities as increased activation of the through site link(s) on the site is required to adequately address safety concerns;

- (viii) Sections 3.14 Waste and 4.2.6 Waste and Recycling Management as the Concept Envelope Plans do not nominate the location and space allocated to waste and recycling management systems;
  - (ix) Section 4.2.1 Building height as the Concept Envelope Plans exceeds the 7 storey height control and 6 storey Fig Street street frontage height control;
  - (x) Section 4.2.3.1 Solar access as the Concept DA includes inadequate information to assess solar access to the proposed apartments and communal open spaces;
  - (xi) Section 4.2.3.6 Deep soil as a deep soil area of 5% of the site area is proposed when SDCP 2012 requires a minimum of 10%;
  - (xii) Section 4.2.3.8 Common open space as a common open space area of 21% of the site area is proposed when SDCP 2012 requires a minimum of 25%. Inadequate information is provided to assess solar access to the communal open space at the ground level. The distribution of communal open space is also inequitable;
  - (xiii) Section 4.2.4 Fine grain, architectural diversity and articulation as the proposed street frontage lengths to Jones Street (131m), Wattle Street (105m) and Fig Street (95m) are excessive. The proposed design principles are insufficiently detailed to overcome the non-compliance. The "articulation zone" extends to the Jones Street site boundary, encroaching into the cliff face. It is not clearly defined, there is no guidance as to what can occur within the articulation zone, how much of the zone can be filled and in part overlaps with the "Potential Jones Street Footpath Zone"; and
  - (xiv) Section 4.2.5.3 Development on busy roads and active frontages as no information on acoustic treatments has been provided in the Concept DA to inform the Competitive Design Process or Detailed Design DA.
- (E) The Concept DA does not satisfy section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 as the site is not suitable for the mix of proposed uses or the scale of the proposed development.
- (F) The proposed development is not in the public interest, contrary to clause 4.15(1)(e) of Environmental Planning and Assessment Act 1979 as:
- (i) The proposed development will have a detrimental impact on the heritage context of the site;
  - (ii) The proposed development will result in a 29.4% breach of the height development standard and the envelopes are not appropriate to the conditions of the site and its context;
  - (iii) The development will set an undesirable precedent and allow the use of a clause 4.6 to seek a substantial variation to a development standard, thereby eroding certainty in development standards and the development control process; and

- (iv) Submissions have been received which raise legitimate concerns about the proposed development.
- (G) The Concept DA provides insufficient information as detailed below:
- (i) Concept plans: The uses within the concept envelope are insufficiently described and should be denoted in plan, section and elevation (including the recreation centre and the childcare centre), all drawings should remove the dashed theoretical “LEP envelope” on the neighbouring building, and the Jones Street footpath requires more consideration. Deep soil areas should be increased and reference to 'constructed deep soil' should be deleted and areas that do not meet the ADG / DCP definition of deep soil zone should be removed. Flooding levels and vehicular and service driveways should be shown on the Concept Envelope Plans. Reference to LEP Envelope to Neighbouring Sites should be deleted;
  - (ii) Design Principles: The design principles provide insufficient certainty to overcome the inadequacies of the Concept Envelopes;
  - (iii) Indicative Reference scheme: The Indicative Reference Scheme should demonstrate compliance with the objectives and minimum requirements in the ADG. Compliance has not been demonstrated in relation to solar access and noise and non-compliance has been demonstrated in relation to common open space, deep soil, building separation and cross ventilation. The plans should include the Concept Envelope outline on all plans, sections and elevations. Reference to LEP Envelope to Neighbouring Sites should be deleted;
  - (iv) Through site link: The Concept Envelopes and principles depict the through site link as having a clear width of 9m, however the Design Excellence Strategy states that the through site link is to be 6m in width. The Design Excellence Strategy should be amended;
  - (v) Cliff: A structural assessment of the cliff is required; and
  - (vi) Land owner's consent: Landowner's consent is required from Transport for NSW to confirm that the through site link to the Wentworth Park Light Rail Station and associated tree removal can be achieved.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport