

Original signed by: Robyn Pearson Dated: 9/3/2021

Platform Project Services Pty Ltd
Level 3, 95 Pitt Street
SYDNEY NSW 2000

D232/20
MS3 (CIS)

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
NOTICE OF DETERMINATION – Refusal**

*Issued under Section 4.18 of the Environmental Planning and Assessment Act 1979 (“the Act”).
Clause 100 of the Environmental Planning and Assessment Regulation 2000 (“the Regulation”)*

Development Application Number: 232/20

Land to which this applies:

1-11 Rodborough Avenue, Crows Nest
Lot No.: X, DP: 398325

Applicant:

Platform Project Services Pty Ltd

Proposal:

Demolition of all structures and construction of a part 4, part 5 storey residential flat building containing 35 units over two levels of basement parking for 53 vehicles and associated works.

Determination of Development Application:

The development application was considered by the **North Sydney Local Planning Panel (NSLPP)** on 3 March 2021. Subject to the provisions of Section 4.17 of the Environmental Planning and Assessment Act 1979, the subject application has been refused for the reasons stated below.

Date of Determination:

3 March 2021

Reason for Refusal:

The proposal fails to comply with the key planning controls of height and ADG guidelines. The applicant is encouraged to discuss an amended proposal with Council Officers prior to submitting a Section 8.2 request for a review of the Panel’s decision and to have regard to the matters identified in the report.

The reasons for refusal are detailed below:

1) The proposed development does achieve the objectives of the R4 High Density Residential zone.

Particulars

- a) The proposed built form exceeds the height and scale of development envisaged by the relevant planning controls and would be inconsistent with the desired character of the area.
- b) The proposed development would not achieve a reasonably high level of residential amenity given that there are an insufficient proportion of apartments that are naturally cross ventilated and received adequate solar access.
- c) The proposed development would not maintain a reasonably high level of residential amenity for surrounding properties given the unreasonable overshadowing and privacy impacts arising from the non-compliance building height.

2) The proposed development does not comply with the maximum permitted height of buildings pursuant to clause 4.3 of NSLEP 2013.

Particulars

- a) The portion of the building that does not comply with the height control results in a loss of amenity to surrounding developments including additional overlooking and overshadowing.
- b) The height and scale of the development exceeds that of the surrounding development.
- c) The written request to justify the contravention has not adequately demonstrated that compliance with the development standard is unreasonable or unnecessary, or that there are sufficient environmental planning grounds to justify the variation.

3) The proposed development does not comply with key amenity controls outlined in the Apartment Design Guide.

Particulars

- a) Only 20 of the 35 (57%) apartments receive sufficient solar access which fails to comply with the 60% minimum design requirement in 4-A of the Apartment Design Guide.
- b) Only 17 of the 35 (48%) apartments are considered to be naturally cross ventilated which fails to comply with the 70% minimum design requirement in 4-B of the Apartment Design Guide.

4) The proposed development does not provide the minimum landscaped area as required by NSDCP 2013.

Particulars

- a) Landscaping above the basement does not meet the definition of landscaped area in section 1.5.7 of Part B in NSDCP 2013 which results in a non-compliance with the minimum landscaped area provision of 40% by 9.7%.
- b) Consequently, the unbuilt upon area exceeds the maximum permitted provision of 15% by 9.7%.
- c) The proposed replacement tree planting is insufficient to reestablish the landscape character and tree canopy to be lost as a result of the development.

5) The location of the proposed driveway is inappropriate and raises a number of other planning issues.

Particulars

- a) Given the scale of the development, the driveway should be located within the building form to minimise the unbuilt-upon area with setbacks,
- b) The proposed development doesn't not comply with the minimum required landscaped area which could be resolved by locating the basement entry within the building footprint.
- c) The driveway location results in increased acoustic impacts to dwellings within the development and the adjoining dwellings to the east.
- d) The proposed driveway requires extensive excavation along the northern side boundary.
- e) No landscape buffer is accommodated between the proposed apartments and the driveway or the driveway and the adjoining boundary shared with the school.
- f) The location of the driveway provides a poor streetscape outcome that is dominated by the driveway and limits landscaping within the northern side setback to screen the development when viewed from the school.
- g) The location of the driveway compromises the use of the northern side setback for communal open space, being the primary location where reasonable solar access is available.

6) The form, massing and scale of the proposed development is unsatisfactory.

Particular

- a) An additional setback has not been provided for the upper most level to comply with P8 in section 1.4.7 of Part B in NDSCP 2013.

- 7) The proposed waste collection facilities do not comply with Council’s waste collection requirements.**

Particular

- a) The street side waste collection bay has been removed on the amended plans. Council’s waste collection vehicles will not enter private land. A temporary holding bay is to be provided within 2m of the front boundary of the site.

- 8) The proposed on-street parking amendments are not acceptable**

Particulars

- a) Turning paths of service vehicle to demonstrate safe and smooth access to the loading bay without any impacts on the on-street parking spaces be provided.
- b) Proposed “No Parking” and “Loading Zone” to be removed from proposal and be converted to “2P, 8.30am – 10pm (Monday – Friday) Permit Holder Excepted.”
- c) The submitted existing and proposed parking restriction diagram shows a 7m long No Parking restriction which is longer than the 7.89m long driveway.

- 9) The recommendations of the submitted 1% AEP Flood Investigation have not been incorporated on the amended plans.**

Particulars

- a) Sydney Water has provided only conditional approval, subject to the proposed electrical substation being relocated to avoid conflicting with stormwater pipeline traversing the southern side of the site.
- b) The proposed substation and surrounding acoustic wall would adversely impact the overland flow corridor provided through the southern side setback of the building and may result in increased flooding levels to the surrounding land.
- c) The proposed boundary fencing along the southern and eastern sides should be open style fencing.
- d) There are some isolated increases to the flood levels within the southern side setback. No details have been provided as to the landscaping modifications to resolve the potential impact to surrounding properties.

- 10) Front Fence**

Particular

- a) The height of the front boundary fencing is excessive in places and should be stepped to ensure that the masonry portion does not result in a harsh blank wall as viewed from the Street.

11) Insufficient information has been submitted to approve the application.

Particulars

- a) Sydney Water has provided only conditional approval, subject to the proposed electrical substation being relocated to avoid conflicting with stormwater pipeline traversing the southern side of the site.
- b) The roof top plant equipment referenced in the submitted acoustic report has not be detailed on the submitted plans.
- c) An amended BASIX Certificate has not been provided.

How community views were taken into account:

The submissions received by Council were addressed in the NSLPP report (see Council's website: https://www.northsydney.nsw.gov.au/Council_Meetings/Meetings/NSLPP/2021/3_March_2021)

Review of determination and right of appeal:

Within 6 months after the date of notification of the decision, a review of this determination can be requested under Division 8.2 of the Act or an appeal to the Land and Environment Court made pursuant to the provisions of Section 8.7 of the Act. A review of determination should be lodged as soon as possible, and preferably no later two months after the date of notification of the decision to enable the review to be completed within the six-month period.

Endorsed for and on behalf of North Sydney Council

DATE

Signature on behalf of consent authority
ROBYN PEARSON
TEAM LEADER (ASSESSMENTS)