

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979
DETERMINATION OF DEVELOPMENT APPLICATION NO. 241-7-2002
(FILE NO. S02/01647 PT1)
SUBDIVISION AND CONSTRUCTION OF RESIDENTIAL FLAT BUILDING
41 MOUNT STREET, PYRMONT

I, the Minister for Infrastructure, Planning and Natural Resources, pursuant to section 80(1)(a) of the *Environmental Planning and Assessment Act 1979* and clause 14 of Sydney Regional Environmental Plan No.26 – City West, determine the development application referred to in Schedule 1 by refusing development consent to the application for the reasons given in Schedule 2.

The reasons for refusal of the development application are:

- 1) The proposed development has negative effects on the public domain including visual impact and overshadowing of neighbouring properties.
- 2) Overdevelopment of the site.
- 3) Non compliance with planning instruments which govern the site. In particular, height and bulk parameters are in conflict with the heritage buildings and streetscape.
- 4) No provision for on site car parking associated with the proposed development.

Craig Knowles MP
Minister for Infrastructure and Planning
Minister for Natural Resources

Sydney,

2003

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Diane Beamer MP
Minister for Juvenile Justice
Minister for Western Sydney
Minister Assisting the Minister for Infrastructure and Planning
(Planning Administration)

Sydney,

2003

SCHEDULE 1

PART A—TABLE

Application made by:	Con and Bronwen Grigoriadis, Candalepas Associates 64 Brenan Street, Lilyfield NSW 2009
Application made to:	Minister for Infrastructure and Planning
Development Application:	No. 241-7-2002
On land comprising:	Lot 17 in DP1010016 41 Mount Street, Pyrmont
For the carrying out of:	Development described in Condition A1, Part A, Schedule 2
Estimated Cost of Works	\$650,000
Type of development:	Local Development
S.119 Public inquiry held:	No
BCA building class:	2
Approval Body / Bodies:	Department of Infrastructure, Planning and Natural Resources
Determination made on:	
Determination:	A development consent is not granted for the reasons given in Schedule 2.
Date of commencement of determination:	This determination commences on the date identified in the accompanying letter.
Date consent is liable to lapse	This determination will lapse 5 years from the date of commencement, unless: ▪ a shorter period of time is specified by the Regulations or a condition in Schedule 2, or ▪ the development has substantially commenced.

PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 241-7-2002

Responsibility for other approvals / agreements

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The applicant has the right to appeal to the Land and Environment Court under Section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only valid:

- (1) for a development application, within 12 months after the date on which the applicant received this notice, or
- (2) for a modification to the consent, within 3 months after the date on which the application received this notice.

Appeals—Third Party

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

Legal notices

Any advice or notice to the consent authority shall be served on the Director-General.

PART C—DEFINITIONS

In this Notice of Determination,

Act means the *Environmental Planning and Assessment Act, 1979* (as amended).

Applicant means Con and Bronwen Grigoriadis, representing Candalepas Associates or any party acting upon this determination

BCA means the Building Code of Australia.

Certifying Authority has the same meaning as Part 4A of the Act.

Council means City of Sydney Council

DA No. 241-7-2002 means the development application and supporting documentation submitted by the applicant on 29 July 2002

Department means the Department of Infrastructure, Planning and Natural Resources or its successors.

Director means the Director of the Urban Assessments (or its successors) within the Department.

Director-General means the Director-General of the Department.

Minister means the Minister for Infrastructure and Planning.

PCA means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

Regulations means the *Environmental Planning and Assessment Regulations, 2000* (as amended).

Subject Site has the same meaning as the land identified in Part A of this schedule.

SCHEDULE 2**CONDITIONS OF CONSENT****DEVELOPMENT APPLICATION NO. 241-7-2002****PART A—ADMINISTRATIVE CONDITIONS****A1 *Development
Description***

Development consent is refused for carrying out the development described in detail below:

- (1) Subdivision (Torrens Title) of an existing site and construction of a new residential flat building containing four strata subdivided units.

**A2 *Development in
Accordance with Plans***

The refused development refers to development application number 241-7-2002 submitted by the applicant on 29 July 2003 and in accordance with the supporting documentation submitted with that application, including, but not limited to, the following:

Statement of Environmental Effects prepared by KR Nash & Associates Pty Limited in Association with Angelo Candalepas & Associated Pty Limited, dated July 2002			
Survey Drawings prepared by Asset Mapping and Surveying Surveyors and Engineers			
Drawing No.	Revision	Name of Plan	Date
2505MP	A denoted by DIPNR	Site Features and Levels	February 2002
2505A	A denoted by DIPNR	Adjoining Information	February 2002
Architectural Drawings prepared by Candalepas Associates			
Drawing No.	Revision	Name of Plan	Date
DA - 01	01	Plans	11 July 2002
DA - 02	01	Elevations and Section	11 July 2002
DA - 04	01	Roof and Notification Plan	11 July 2002

PART B—REASONS FOR REFUSAL OF DEVELOPMENT APPLICATION

The development consent has been refused, based on information provided to Urban Assessments for the following reasons:

B1 Non-compliance with Planning Instruments

The Environmental Planning Instruments (EPIs) that apply to the site include the Pyrmont – McCafferys Hill and Distillery Hill Precinct Master Plan, SREP 26, Ultimo-Pyrmont UDP and SEPP 65 – Design of Quality Residential Flat Buildings. The proposed development does not comply with planning instruments which govern the site. In particular, the following non-compliances are noted:

- 1) Mount Street Facade: the development would present a large and predominantly blank face to Mount Street whereas the instruments covering the site require facades to be rich in detail and design. Though different design expressions could satisfy the controls, the parred=back design of the proposal in combination with its scale falls short of the standard set by the controls.
- 2) Distance to adjoining developments: The site is currently bounded to the western side by the McCafferys Hill development which is under construction. This development has a number of windows and balconies which front onto this boundary. The construction of the proposed development in its current form would result in a number of habitable areas, including balconies under the required distance from adjoining developments.

B2 Character and Siting

The proposed scale and bulk of the proposed development does not respect the existing scale of the adjoining terraced housing and its flat roof is contrary to that promoted in the planning instruments governing the site. The dominant scale of the blank façade facing Mount Street would detract from the ornate detailing and design of adjoining terraced housing.

B3 Heritage

The subject site is part of a heritage listed terrace identified in SREP 26. Section 3.3 of the Ultimo-Pyrmont UDP requires that a DA involving the subdivision of land on which a heritage item is located is to be accompanied by a Heritage Impact Statement. The potential impact on heritage items has not been identified because no Heritage Impact Statement has been included with the DA.

B4 Public Amenity

The southern subdivided portion of the site would contain four residential flats on a site that would typically contain a single dwelling house. In contrast to adjacent terraces the proposal would cover the whole the site. This is considered to be overdevelopment of the site and would likely result in negative impacts on the public domain, including the following:

- 1) Overshadowing: The DA submission for the proposed development indicates that a north facing light-well located to the rear of No. 43 Mount Street will be partially and fully cast in shadow during winter daylight hours. Although there is an existing lane separating No.

43 and the subject site, this shadow contravenes the requirements of the Master Plan and access to sunlight during winter. The scale of the proposed development would likely result in significant overshadowing to the open space of the terrace to the south.

- 2) Accessibility: There is no special provision made for disabled access for the mobility impaired.
- 3) Overlooking: Over a large part of the site the proposal is a storey taller than terraces either side. Given the close proximity of the adjoining McCafferys development, overlooking to the western boundary is considered likely. In addition, the disposition of the balconies would contribute to substantial overlooking of courtyards to the north. The proposed screening is not considered to be a suitable design solution to the overlooking.
- 4) Private open space: For each dwelling there appears to be insufficient private open space, much of it largely enclosed. The private open space areas fall short of the requirements outlined in the Ultimo Pyrmont UDP. This requires a minimum of 20m² for each of the apartments with the exception of the three bedroom apartment which requires 30m² of private open space.
- 5) Car Parking and Cycle Storage: There is no provision for on-site parking or cycle storage. The requirement as specified in the UDP for the entire development would be 6 car spaces. This is considered to negatively impact upon the public domain given the current shortage of on-street parking in the vicinity of the site. Despite the high accessibility of the site to public transport, having regard to the dwelling mix and to the number of bedrooms in each unit, some consideration needs to be given to parking of cars and/or cycles.

B5 *Residential Amenity*

The proposal lacks utilities for occupants including bicycle storage, on-site car parking, bulky goods storage etc. In addition, the proposed timber slats would substantially mask the outlook from the majority of flats.

B6 *Compliance with Building Code of Australia*

According to the building report, windows on the boundaries of the proposed development would appear not to be able to comply with the provisions of the Building Code of Australia 1996, Amendment No. 11 (Class 2). This could affect the design of the building.

B7 *Overdevelopment of the Site*

Overall, the proposed development is too large and too high for the subject site, within the local setting.

ADVISORY NOTES

AN1 *Redesign of Proposed Development*

Should the applicant wish to proceed with development of the subject site, a separate Development Application would need to be submitted to the Department of Infrastructure, Planning and Natural Resources in accordance with legislative requirements.