

# MINUTES OF THE SYDNEY EAST REGION JOINT REGIONAL PLANNING PANEL MEETING HELD AT WAVERLEY COUNCIL CHAMBERS, QUEENS PARK ROOM, LEVEL 3, BONDI JUNCTION ON THURSDAY, 11 NOVEMBER 2010 AT 6:00 PM

## PRESENT:

John Roseth	Chair
David Furlong	Panel Member
Timothy Moore	Panel Member
Stephen Bargwanna	Panel Member
Bill Gawne	Panel Member

## IN ATTENDANCE

Arif Faruqi	Waverley City Council
Mitchell Reid	Waverley City Council

## APOLOGY: NIL.

The meeting commenced at 6.05pm.

### 1. Declarations of Interest -

Stephen Bargwanna (AECOM)	Non pecuniary - Company has recently acquired Davis Langdon, the QS, involved in this matter
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### 2. Business Items

**ITEM 1 - 2010SYE037 Waverly DA No. 219/2010 – Demolition of buildings and construct part 3, part 4 storey residential flat building containing 6 units, basement parking and strata subdivision, 158-160 Ramsgate Avenue, North Bondi**

### 3. Public Submission -

Rita Cole	addressed the Panel against the proposal
Sonia Gorney	addressed the Panel against the proposal
Tyron Hyde	addressed the Panel's power to determine the application
Chris Russell	addressed the Panel against the proposal
Rod Tamsett	addressed the Panel against the proposal in regards to concerns about the impact on the views he now obtains through his side windows
Andrew Coroneo	addressed the Panel against the proposal
Eva Prochazka	addressed the Panel against the proposal
Cr Dominic Wy Kanak	addressed the Panel against the proposal and requested the Panel to impose a condition requiring an archaeological survey of the site
Alison McCabe (SJB, applicant)	addressed the Panel with a request to not impose several conditions
Adam Haddow	addressed and answered questions of the Panel

(SJB, applicant)

#### 4. Business Item Recommendations

**2010SYE037 Waverly DA No. 219/2010 – Demolition of buildings and construct part 3, part 4 storey residential flat building containing 6 units, basement parking and strata subdivision, 158-160 Ramsgate Avenue, North Bondi**

##### Resolution on Ramsgate Avenue Bondi

1. The Panel has considered the question of whether the application falls within its jurisdiction. The Panel has received conflicting legal advice on this matter. The Panel has come to the view that the application was correctly referred to it and that it has the power to determine it.
2. The reason for the Panel's view is that, when the application was lodged, its Capital Investment Value (CIV) was stated to be \$10,654,175. The council based its fee on that CIV. No one has questioned the value at the time, and no one has since suggested that the value of the proposal, in the form in which it was lodged, was wrongly estimated. Since the value was over \$10 million, the council referred the application to the Panel. The fact that subsequent amendments to the proposal may have varied the CIV is of no relevance.
3. The above view is supported by the Department of Planning's Circular PS10-008 of 10 May 2010, which states:  
*The CIV of a proposed development is to be calculated at the time of lodgement of the application for the purposes of determining whether the application should go to a Regional Panel.*
4. The view is supported also by the judgment of Justice Biscoe in *Calardu Penrith Pty Ltd v Penrith City Council* [2010] NSWLEC50, which states at paragraph 58:  
*Under cl 13B(1)(a) the time at which there should be a determination of whether the development has capital investment value of more than \$10 million, in my view, is when the development application is lodged.*
5. Finally, the view is supported also by practical considerations, for it avoids applications with a value of around \$10 million bouncing between the council and the JRPP as amendments either increase or reduce the value of proposals.
6. Turning to the question of the application before the Panel, the Panel resolves unanimously to accept the recommendation of the planning assessment report to approve the application, for the reasons mentioned in the report and subject to the conditions recommended in the report.
7. The Panel has considered the applicant's request not to impose conditions requiring lowering the building and increasing the Brighton Boulevarde setback; however, it has concluded that these amendments are required to reduce the impact of the development.
8. The Panel has also considered the submissions of objectors. It has reached the conclusion that the view impact is moderate and reasonable as long as the building is lowered by 830mm. As concerns the side views of Mr Tamsett, the Panel believes that the impact on those views is also moderate, provided the building is lowered by 830mm. Moreover, the view principles in *Tenacity*, invoked by several of the objectors, include a statement that views obtained over side boundaries are often difficult to protect. To eliminate all impact on Mr Tamsett's views would require such a severe reduction of the site's development potential that it would be unreasonable.

9. The Panel is aware that the proposal's FSR is in excess of 0.6:1; however, it is lower than the FSR of the existing buildings on the site. Moreover, the FSR of the buildings in which the objectors live is also well in excess of 0.6:1.
10. The Panel considered Councillor Wy Kanak's request for a condition requiring an archaeological survey of the site. The Panel notes that such a condition has not been recommended in the assessment report and is not imposed on other development consents of council. In addition, it would be unfair to impose it at such late notice as it would not allow the applicant the opportunity to respond.
11. In summary, the Panel believes that the planning assessment report has achieved a reasonable balance between promoting development and protecting amenity.

**MOTION CARRIED**

The meeting concluded at 8.12pm

Endorsed by

John Roseth  
Chair, Sydney East Region Planning Panel  
13 November 2010