



14 August 2013

Joint Regional Planning Panel
23-33 Bridge Street
Sydney NSW 2000

Dear Panel Members,

**JRPP REPORT No. 2013SYE115
DA 12/206
42-44 PEMBERTON STREET, BOTANY**

- 1.1 I refer to the JRPP report prepared by City of Botany Bay for the JRPP meeting on 21st January 2013 in respect of the development application referenced above.
- 1.2 The report recommends refusal of the Development Application based on the following two reasons:
 1. *The application made under Section 96(2) of the EP & A Act 1979 to modify the Masterplan consent under DA10/313 has been refused by Council as the consent authority;*
 2. *The development application as proposed under DA12/206 for buildings D, E & F at 42-44 Pemberton Street, Botany does not constitute a development that will be substantially the same as the Masterplan development approved under DA10/313.*
- 1.3 In response to the above reasons for refusal, legal advice prepared by Wilshire Webb Staunton Beattie Lawyers accompanies this letter. The legal advice responds to the reasons for refusal and confirms that 'there is no legal bar to the JRPP determining DA12/206'. The advice confirms that as the Masterplan DA was not a 'Staged DA' pursuant to Clause 83D of the Act, the subject DA is not required to be consistent with the Masterplan consent.
- 1.4 In this regard, there is no legal impediment to the approval of the application and it is requested that the JRPP consider the development application on its merits.
- 1.5 As clearly outlined in the report prepared by the Director Planning and Development, the proposed development complies with the primary development standards that apply to the site in the recently gazetted Botany Bay LEP 2013 and was supported by the Design Review Panel.

- 1.6 The concept Masterplan for the site was prepared on the basis of the planning controls established in 1995. Given the increased FSR and Height controls permitted by Botany Bay LEP 2013, the development proposed represents an appropriate form of development that is consistent with the desired future character of the area.
- 1.7 Accordingly, it is requested that the JRPP approve the development application.
- 1.8 To enable the panel to consider approval of the application, it is requested that the panel request the City of Botany Bay provide the panel with draft conditions of consent.
- 1.9 We look forward to the panels' consideration of this item on 21 August 2013.
- 1.10 Should you require any additional information, please contact Larissa Brennan at LJB Urban Planning Pty Ltd on 0414 730 842 or via email larissa@ljbplanning.com.au

Yours sincerely



Larissa Brennan
Director
LJB Urban Planning

Attachment: Legal Advice – Prepared by Wilshire Webb Staunton Beattie