

## Objection pursuant to SEPP 1 (maximum floor space ratio)

### 1. Is the requirement a development standard?

The planning control in question is the maximum floor space ratio set by Clause 12(3) of the BLEP 1995. This is a development standard.

Clause 12(3) of the LEP prescribes the maximum permissible floor space ratio (FSR) for the development as 1.5:1.

*(3) Notwithstanding the provisions of subclause (1), the Council may consent to the carrying out of commercial development (other than that referred to in subclause (4)) and airport related development, but not including industry, on land within Zone No 4 (c1) or 4 (c2) to a maximum floor space ratio of 1.5:1.*

The application proposes an FSR of 6.6:1, which is in breach of the maximum floor space ratio development standard.

A current consent exists for an office building of 12 storeys on the subject site (DA 08/132). The approved office building has a gross floor area of 15, 259m<sup>2</sup>, which equates to a floor space ratio of 7.28:1 which is greater than the hotel proposed in this application.

### 2. What is the underlying object or purpose of the standard? (If there is no stated objective of the standard)

The LEP does not stipulate objectives for the FSR control. However, the purposes of the standard can be implied to be:

- *To ensure the bulk and scale of proposed development is appropriate for the site*
- *To ensure the intensity of the development is appropriate in its context*

### 3. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

*This may be found if:*

- a. The proposal meets the objectives of the development standard notwithstanding its non-compliance with the standard. In this instance one*



*must determine the objectives of the standard and if not expressly stated in the LEP what are the inferred objectives?*

The proposed development meets the above inferred objectives of the maximum floor space ratio control for the following reasons:

- *To ensure the bulk and scale of proposed development is appropriate for the site*

The subject site is a key gateway location to the Sydney Airport precinct, as approached from the north along O'Riordan Street. The principal curved façade, addressing the O'Riordan and Robey Streets corner, relates to and reflects the geometry, scale and form of its neighbour. The proposed building will have the effect of balancing the streetscape and provide an appropriate urban design solution for the entrance to the airport gateway precinct.

Shadow diagrams prepared by Ancher/Mortlock/Woolley accompanied the DA submission. No significant overshadowing occurs to the public domain or residential properties as a result of the development. The impact on the residential property immediately east on Baxter Road is limited to the morning hours.

- *To ensure the intensity of the development is appropriate in its context*

## *Building occupancy*

Located in the immediate vicinity of the airport, the site is part of a special designated economic employment centre (Sydney Airport) under the Metro Strategy. In this centre, employment and economic activity are encouraged and the intensity of site will contribute to the targets required of the LGA. The hotel will have 238 rooms and provide direct employment in excess of between 50 to 100 persons.

## *Traffic and parking*

As stated in the Traffic Impact Assessment submitted with the application, the applicant's traffic consultant is satisfied that compliance with the identified parking rate of 1 space per 75m<sup>2</sup>, combined with scheduled improvements to public transport facilities in the area, will ensure that no additional parking stress is placed on the surrounding road network as a result of the development. The traffic generation will be substantially less than that resulting from the current approval for an office building on the site.

The proposed solution for servicing the building has also been designed to minimise



any disruption to the local road network. The proposal incorporates two loading bays on the ground level to ensure that all deliveries and pick-ups can occur on-site. The loading bays are served by a one-way access from Baxter Road through to Robey Street. The exit onto Robey Street is left turn only so as to divert service vehicles back on to O'Riordan Street rather than down the length of Robey Street which is residential in character. This will ensure that smaller local streets are not forced to accommodate additional vehicle movements as a result of the development.

By providing a building design similar to be approved already given by Council, the application demonstrates its compliance with the implied objectives of the FSR control applying to the site.

*b. The underlying objective or purpose is not relevant to the development;*

In this particular case, the purpose of the current FSR control is not relevant to the gateway development. Only an increase in the FSR will allow the area to fulfil its role as a special economic employment centre designated under the Metro Strategy and the Employment Lands for Sydney Action Plan, released in March 2007 as part of the Metro Strategy program.

An increase in the FSR of the proposal will also enable the development to complement the height and scale of the 12 storey Stamford/Airport Central building, providing an appropriate gateway treatment to the entry to the airport precinct. A building of the height, scale and design of the subject application is required if the Council's desired airport gateway urban design vision is to be realised.

*c. The underlying objective or purpose would be defeated or thwarted if compliance was required with the standard;*

Under the BLEP 1995 FSR control, the orderly urban design of the site cannot be met except by non-compliance with the standard. Complying with the FSR control would result in an uneconomic 3 storey development and an inappropriate scale development for the gateway to Sydney Airport.

*d. The development standard has been virtually abandoned or destroyed by Council's own actions.*

The proposal is a unique case as the site, together with the Stamford building, forms the gateway to the airport precinct. Approval of the proposal will not be a precedent



for other claims and does not suggest that Council has undermined its controls. However, Council cannot fulfil the vision of the gateway to the airport without non-compliance with the standard.

#### 4. Is the objection well founded?

The increased floor space ratio of the proposed development will make a valuable contribution to the Sydney Airport, its gateway area and the City of Botany Bay. The proposal will help the area fulfill its role as a gateway function and help reach LGA employment targets allocated under the Metro Strategy. It will have no significant adverse impacts on neighbours or upon the public domain and will directly employ between 50 and 100 persons and accommodate some (rooms x 1.2 persons per room) tourists. The subject proposal maintains the high quality design evident in the earlier office building application. Compliance with the FSR as stipulated is unnecessary and the objection is well founded.

#### 5. Is the granting of consent consistent with the aims of the SEPP 1 policy?, namely:

- a. *To provide flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance in any particular case would be unreasonable or unnecessary; (Answered via Question 3)*

It would be reasonable to require compliance with the LEP if some adverse impact of the proposal was sufficient to negate the positive benefits of providing a hotel in this State Government designated economic and employment centre. No such adverse impact has been identified in the comprehensive analysis carried out for the DA (refer to Statement of Environmental Effects). Hence, compliance is unreasonable because the proposal provides a means of achieving high level strategic outcomes important for the State of NSW, in a key location, without the usual adverse outcomes for adjoining development.

It is also unreasonable to ensure compliance because the consent authority has identified the site as a key part of the airport precinct gateway and development on the site has sought to match that adjoining in terms of bulk and scale. Compliance would frustrate the achievement of this locally important aim.

As the site is a unique gateway to the airport precinct, approval of such a project, well beyond the normal guidelines, will not be a precedent for other claims. For these





reasons, application of SEPP 1 to the proposal on its very special site is very appropriate and deserving of approval.

- b. Will strict compliance with the development standard tend to hinder the objects of the Act, namely:*
  - i. The proper management development and conservation of natural and artificial resources, including agricultural land, natural forest, forest, minerals, water, cities, town and villages for the purposes of promoting the social and economic welfare of the community and a better environment; and*
  - ii. The promotion and coordination of the orderly and economic use and development of land.*

The Metro Strategy repeatedly stresses the importance of the area as an economic and employment centre that must be enhanced. This area has also been singled out as being an employment hub, as shown both in the Metro Strategy and the Employment Lands for Sydney Action Plan, released in March 2007 as part of the Metro Strategy program, the relevant points of which are below:

*"Key Recommendations of The Employment Lands Task Force:*

- 5. Protect strategic employment lands between Sydney Airport and Port Botany with more flexible planning controls to support economic development, but also retain logistics which service both Port Botany and Sydney Airport."*

The Employment Lands Task Force, in point five of its executive summary, quoted above, states that "more flexible planning controls to support economic development" are required. In this respect the development proposal responds directly to the recommendations of the Metro Strategy.

*"Demand for employment lands in established parts of Sydney will remain high, especially in proximity to gateway infrastructure (Port Botany, Sydney Airport and the Orbital Motorway Network) to meet both local (urban services) and regional (transport and logistic) industrial demands. Protection and possible regeneration of these strategic employment areas will be vital to Sydney's future competitiveness."*

Sydney Airport and its surrounds cover an area of only 3km<sup>2</sup> and have an increased employment generation target of over 50%. In this respect, the proposed development represents a critical opportunity to assist in achieving the aims and goals of the Metro Strategy. Failure to utilise this opportunity would hinder the economic development aims of the Metro Strategy and the EPA Act.



Furthermore, a building of the height, scale and design of the subject application is required if the Council's desired airport gateway urban design vision is to be realised. This is why an office building of similar characteristics has been approved for the subject site. The objects of the Act, with respect to the orderly urban design of the site cannot be met except by non-compliance with the standard.

## 6.

- a. Whether or not non-compliance with the development standard raises any matter of significance for State or Regional environmental planning;*

Non compliance with the maximum floor space ratio control will not raise any matter of adverse significance for State or Regional environmental planning. The proposal accords with the Metro Strategy vision for the area as well as satisfying State Government employment targets.

- b. The public benefit of maintaining the planning controls adopted by the environmental planning instrument.*

The development will significantly enhance the streetscape and the gateway function of the site and maintaining the maximum floor space ratio control is not in the best interest of the public.

The proposal will not result in detrimental overshadowing or loss of privacy for any residential properties therefore not causing adverse environmental effects on the use or enjoyment of adjoining properties and the public domain. The proposal will generate approximately 50 to 100 full-time equivalent jobs and considerable tourist income. This will support the economic development of the City of Botany Bay, providing local employment and expenditure.

Under the current maximum floor space ratio control of 1.5:1, the proposal would not be more than 3.5 storeys and have a very small floor plate. As the site is located in the immediate vicinity of the airport, the site is part of a special economic employment centre (Sydney Airport) designated under the Metro Strategy. In this centre, employment and economic activity are encouraged and the intensity of site use will contribute to the targets required of the LGA.

Increasing the FSR control for the development will facilitate economic development and permit a 238 room hotel and provide direct employment in excess of between 50 to 100 persons.



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