

**RECORD OF DEFERRAL
SYDNEY EAST JOINT REGIONAL PLANNING PANEL
MEETING HELD AT CHRISTIES CONFERENCE CENTRE
ON WEDNESDAY, 24 SEPTEMBER 2014 AT 3:30 PM**

Panel members:

John Roseth - Chair
David Furlong – Panel Member
Sue Francis – Panel Member
Ben Keneally – Panel Member
George Glinatsis – Panel Member

Council staff in attendance: Shannon Anderson and Stuart Ardlie

Apologies: nil

Declarations of interest: nil

Matter deferred:

2012SYE117 – Botany Bay - 12/230: Construction of a 12 storey (238 room) hotel with ancillary facilities, retail space, basement carparking and associated landscaping at 210 O'Riordan Street, Mascot

Public submissions made at this meeting:

Addressing the Panel against the item – Jacqueline Boyd, Ronald Boyd and James McGhee
Addressing the Panel on behalf of the applicant - Spiro Isak and Michael Neustein

Panel Decision:

1. The Panel has considered the planning assessment report and concluded that the SEPP 1 Objection to justify the variation of Floor Space Ratio (FSR) from 1.5:1 to 6.6:1 is not well founded, notwithstanding the fact that there exists a valid 2009 consent on the subject site for a commercial building with a FSR of 7.28:1.
2. The Panel notes that the Gross Floor Area (GFA) of the approved application includes car parking. On the basis that the existing approval is a circumstance of the case that should be taken into account, the Panel would accept a variation of the FSR standard, such that the GFA not devoted to parking in the current application is similar to the GFA not devoted to parking in the application approved in 2009.
3. The Panel requests the applicant to submit, by 24 October 2014, amended drawings that comply with the above criterion.
4. The Panel notes that the site adjoining the subject site to the east, 131 Baxter Road, as well as 125 Baxter Road, both qualify as isolated sites. The Panel also notes that the Land and Environment Court of NSW has established a planning

principle on how to deal with isolated sites in assessing development applications. (See *Melissa Grech v Auburn Council* (2004) NSWLEC 40). That principle states:

- a. *Firstly, where a property will be isolated by a proposed development and that property cannot satisfy the minimum lot requirements then negotiations between the owners of the properties should commence at an early stage and prior to the lodgement of the development application.*
 - b. *Secondly, and where no satisfactory result is achieved from the negotiations, the development application should include details of the negotiations between the owners of the properties. These details should include offers to the owner of the isolated property. A reasonable offer, for the purposes of determining the development application and addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property.*
 - c. *Thirdly, the level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the development application. The amount of weight will depend on the level of negotiation, whether any offers are deemed reasonable or unreasonable, any relevant planning requirements and the provisions of s 79C of the Environmental Planning and Assessment Act 1979.*
5. The Panel requests the applicant to follow the procedures required by the above planning principle.
 6. The Panel requests the planning assessment officer to provide a supplementary report, within two weeks of receiving the amended drawings and additional information, on whether the amended drawings comply with the criterion set out in paragraph 2 and whether the applicant has followed the procedures set out in paragraph 4. Following receipt of the supplementary report, the Panel will determine the application by electronic means unless it considers that a further public meeting is required.

Endorsed by



John Roseth
Chair, Sydney East Region
Joint Regional Planning Panel
25 September 2014