

SUPPLEMENTARY REPORT - JOINT REGIONAL PLANNING PANEL (Sydney East Region)

JRPP No	2013SYE094
DA Number	13(208)
Local Government Area	City of Botany Bay
Proposed Development	<p>Joint Regional Planning Panel (JRPP) and Integrated Development Application for the redevelopment of the site for residential purposes, comprising:</p> <ul style="list-style-type: none"> - excavation and site preparation works and construction of the site for residential purposes; - Four (4) buildings containing a maximum Gross Floor Area (GFA) of 42,804sqm and Floor Space Ratio (FSR) of 0.96:1 in the B4 zone and 1.55:1 in the R3 zone, comprising a total of 438 apartments; - Building heights between three (3) storeys to eight (8) storeys; basement and ground level parking; - 3,000sqm of publicly accessible open space; - pedestrian and cycle through-site links; and new vehicular access from Pemberton Street. - The proposal also includes dedication of land and stratum and Torrens Title subdivision. <p>A letter of offer to enter into a Voluntary Planning Agreement has under S93F of the Environmental Planning and Assessment Act, 1979 accompanies the development application.</p>
Street Address	52-54 Pemberton Street, Botany NSW 2019
Applicant/Owner	Applicant - Australand Property Group Pty Ltd Owner - Newtown Dyers and Bleachers Pty Ltd
Number of Submissions	<p>First Round – 23 October 2013 to 29 November 2013 – Nine (9) letters of objection and two form letters of objection.</p> <p>Second Round – 15 October 2014 to 29 October 2014 – Forty three (43) submissions of objection, with thirty four (34) of these submissions being in form letters of objection.</p> <p>Third Round - 22 April 2015 to 22 May 2015. Three (3) submissions of objection were received.</p>

Regional Development Criteria (Schedule 4A of the Act)	<p>The development application is referred to the JRPP pursuant to Clause 3 of Schedule 4A of the Act as the Capital Investment Value (CIV) of the proposal is over \$20 million.</p> <p>The CIV of original development \$181,294,482.00.</p> <p>The CIV of amended application \$138,554,483.00.</p>
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • Environmental Planning & Assessment Act 1979, Part 4 – Development Assessment • Environmental Planning & Assessment Regulation 2000, Part 6 – Procedures relating to development applications • State Environmental Planning Policy No. 55 – Contaminated Land • State Environmental Planning Policy 2004 (BASIX); • State Environmental Planning Policy No. 65 – Design Quality of Residential Flat buildings • Botany Bay Local Environmental Plan 2013 • Draft amendment to Botany Bay Local Environmental Plan 2013 • Botany Development Control Plan 2013
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Statement of Environmental Effects – JBA Urban Planning • Clause 4.6 Exception – JBA Urban Planning • Architectural Plans & Design Report – Group GSA • Landscape Plans – Tract Landscape Architects • Traffic Impact Assessment – Ason Group • Phase 1 and 2 Environmental Site Investigation - WSP • Geotechnical Report – Douglas Partners • Access Report – Brentnall Technical Solutions • VPA Letter of offer – Australand • Acoustic Report – Acoustic Logic • Waste Management Plan - GHD • Housing Diversity Assessment – JBA Urban Planning • Remediation Action Plan – DLA Environmental • Survey – Dunlop Thorpe • Pedestrian Wind Environment Statement – Windtech • Stormwater Management and Flooding Analysis Report – Mott MacDonald
Recommendation	Refusal
Report by	Heather Warton, Director City Planning & Environment

On 6 July 2015, the JRPP requested Council to provide additional assessment that addresses the Panel's Decision from 20 January 2015, and that Council provide draft conditions of consent.

The table below provides a comparison between the JRPP's Panel Decision on the 20 January 2015 and the proposed application, lodged with Council on 1 April 2015.

Council officers have recommended refusal of the application. The application has been amended from a Stage 1 Master Plan application to a Stage 2 Development application. The subject application now contains details that were not apparent in the previous application.

One of the key issues is the application's non-compliance with Botany Bay Council's Apartment sizes, and non-compliance with the apartment sizes with the table on page 69 of the RFDC.

Council previously recommended 'deferred commencement consent' to the Stage 1 application on the basis that any future Stage 2 application were to comply with Council's unit sizes. The applicant has not complied with this recommendation, and therefore the application is inconsistent with the previous recommendation.

The proposed apartments represent a substantial breach from the requirements under the BB DCP 2013 and are not supported by Council staff. Council advises the JRPP that there have been no applications within the Botany Bay Council area that have been approved with non-compliant unit sizes.

Therefore, Council officer's draw the Panel's attention to the undesirable precedent that such an approval may set.

In addition, Council officer's consider that the under-sized apartments will generate poor amenity and are not suitable for the locality.

Vehicular access from New Street 1 remains unresolved, given there are conflicts with access over a pedestrian footpath. This requires further resolution, prior to any approval.

Council is preparing draft conditions and it is expected that these may be available at the earliest by Thursday 9 July 2015 or Friday 10 July 2015, due to internal referral requirements.

In any instance, Council will impose a Condition in the draft schedule of conditions which requires the application to be amended to comply with the Building Height standards under the BB LEP 2013 and to comply with the unit sizes under the BB DCP 2013.

Comparison Table

JRPP – Panel Decision 20 January 2015	Proposed by application lodged 1 April 2015	Compliance
<p><i>1. The maximum building heights are to be amended as follows:</i></p> <p><i>a) Buildings A and B (west) along Pemberton Street (within the B4 zone) shall be no greater than 10 metres (3 storeys);</i></p> <p><i>b) Building B (south wing) shall retain the proposed 7 and 8 storey components, however the 4 storey component may increase to 5 storeys;</i></p> <p><i>c) Building B (east wing) shall be no greater than 8 storeys;</i></p> <p><i>d) Building B (north east wing) shall be a consistent 4 storeys (currently 6 and 2 storeys);</i></p> <p><i>e) Building D (south/west wing) shall be no greater than 7 storeys;</i></p> <p><i>f) Building D (north-west wing) shall be a consistent 4 storeys (currently 6 and 2 storeys);</i></p> <p><i>g) Building D2 (east wing) along Wilson Street shall be a maximum of 3 storeys;</i></p> <p><i>h) Building E3, along Wilson Street to be a maximum 3 storeys; and</i></p> <p><i>i) Building E (west) may be increased from 3 to 5 storeys.</i></p>	<p>a) A portion of Building A is 10 metres/storeys and complies. Building B (west) is 12.4 metres, however is 3 storeys. Note, that a portion of Building B, to the south-west, within the B4 zone is 4 storeys or 16.2 metres.</p> <p>b) Building B (south wing) is 8 storeys and 5 storeys.</p> <p>c) Building B (east wing) is 8 storeys.</p> <p>d) Building B (north east wing) is a consistent 4 storeys.</p> <p>e) Building D (south/west wing) is 7 storeys.</p> <p>f) Building D (north-west wing) is a consistent 4 storeys.</p> <p>g) Building D2 (east wing) along Wilson Street is 3 storeys.</p> <p>h) Building E3, along Wilson Street is 3 storeys.</p> <p>i) Building E (west) is 5 storeys.</p>	<p>Generally compliant, and subject to approval of a Clause 4.6 Exception</p>
<p><i>2. The amended plans are to be fully dimensioned, both horizontally and vertically in metres and include Relative levels referenced to AHD. The plans shall also specify the resulting gross floor area and floor space ratio within each of the applicable land use zones within the site and over the whole site.</i></p>	<p>The amended plans are dimensioned and include R.Ls in AHD.</p> <p>GFA and FSR calculations have been provided.</p>	<p>Yes</p>

<p>3. Where buildings are located adjacent to single dwellings i.e., buildings A, B & D there shall be no increases in footprints or reductions in setbacks from common property boundaries. Building E west may increase its internal footprint (close the gap) if required.</p>	<p>Building A has been converted to 2/3 storey terraces. This has increased the footprint and reduced the setback from a common property boundary with a single dwelling.</p> <p>Apart from the above, the footprints of Buildings B and D have not been increased.</p> <p>Building E has increased the footprint as per the Panel Decision.</p>	<p>Yes, with exception of terraces at Building A</p>
<p>4. The proposed public open space area may not be reduced.</p>	<p>The applicant has retained the 3,000sqm public park, and the north-south and east-west site link.</p>	<p>Yes</p>
<p>5. The two 90 metre long buildings (B east & D west) must be physically broken to reduce their length.</p>	<p>The applicant has incorporated a 9 metre break/separation for both of the 90 metre buildings (B east and D west).</p>	<p>Yes</p>
<p>6. Within the B4 zone a minimum of 300 square metres of non - residential floor space must be provided on the ground floor of buildings A & B and shown on the amended plans.</p>	<p>The applicant has incorporated a commercial space of 333 sqm within the B4 zone.</p>	<p>Yes</p>
<p>7. If required, the applicant shall prepare a Clause 4.6 submission in relation to any building heights and / or floor space ratios that exceed the maximum permissible in the Botany Bay Local Environmental Plan 2013 as a result of the amended plans.</p>	<p>A Clause 4.6 Exception has been provided in relation to the height within both the B4 and R3 zone.</p> <p>Noted, there are portions of the height that comply with the standard.</p> <p>The FSR is compliant in each zone/across the site.</p>	<p>Yes</p>
<p>8. The applicant shall lodge the required amended plans and associated documentation within 14 days of the date of these minutes.</p>	<p>The applicant amended the application to a Stage 2 application.</p>	<p>N/A</p>
<p>9. Council shall determine whether or not the amended plans require notification in accordance with the relevant DCP.</p>	<p>The application was notified for 30 days in accordance with the DCP.</p>	<p>Yes</p>

<p><i>10. The Council and the applicant shall discuss and determine the final draft conditions to reflect the amended plans and ensure certainty and clarity for subsequent Development Applications.</i></p>	<p>No conditions were provided, as the application was recommended for refusal.</p> <p>Notwithstanding, Council is now preparing draft conditions of approval.</p>	<p>N/A</p>
<p><i>11. Subject to the need for notification and the consideration of any associated submissions, Council shall provide a supplementary report to the Panel Secretariat within 30 days of the receipt of the amended plans or conclusion of any notification period.</i></p> <p><i>The report shall include advice as to whether the amended plans meet the requirements of point 1 above, an assessment of any associated Clause 4.6 submission and any public submissions and the final draft conditions.</i></p>	<p>Assessment report provided to JRPP on 3 July 2015.</p>	<p>N/A</p>
<p><i>12. Upon receipt of the supplementary report the Panel Chair will determine whether the matter can be finalised by electronic means of communication or whether a further public meeting is required.</i></p>	<p>Public meeting to be held on 15 July 2015.</p>	<p>N/A</p>