

SYDNEY EAST JOINT REGIONAL PLANNING PANEL

Meeting held at Christies Conference Centre on Thursday 9 July 2015 at 3:30 pm

Panel Members: John Roseth (chair), David Furlong, Julie Savet Ward and George Glinatsis

Apologies: Peter Fitzgerald - Declarations of Interest: None

Determination and Statement of Reasons

2014SYE016 Botany Bay DA13/271 [at 27 Church Avenue and 18A Johns Street, Mascot] as described in Schedule 1.

Date of determination: 9 July 2015

Decision:

The panel determined to accept the recommendation of the supplementary assessment report of 9 July 2015 to refuse the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*.

Panel consideration:

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1.

Reasons for the panel decision:


The principal reason for the Panel's decision to refuse the application is that, on the assumption that the site is developed by itself, only 58% of the apartments will receive 2 hours of sunlight. On the more realistic assumption that the neighbouring site will also be redeveloped, only 51% of the apartments will receive 2 hours of sunlight. While the Panel might agree to a minor variation of the 70% recommended in the Residential Flat Design Code (as well as the more recent Apartment Design Guide), it is not minded to accept such a poor performance.

The Panel notes that an earlier assessment report by the council has accepted variations of required setbacks and separation distances on the basis that the proposal performs acceptably on solar access. Now that it is clear that proposal's performance on solar access is poor, acceptance of these variations, based on incorrect data, is clearly misplaced.

While the area of the site appears adequate, it is very narrow and long for the FSR of 3.2:1 that has been allocated to it in the Botany LEP 2013. If the site is to be redeveloped without its neighbour 23 Church Street, it is likely that a satisfactory level of solar performance can be achieved only if the density is lowered. The Panel has considered the applicant's submission that it is able to make internal changes to the apartments in such a way that the proportion of apartments receiving 2 hours of sunlight would rise to about 63%. However, changing the internal arrangements in the apartments on this site, without reducing the bulk of the buildings, would not reduce the adverse impact this development would have on the solar performance of 23 Church Street, if that site were redeveloped. Moreover, in view of the fact that this suggestion comes nearly two years after the application was lodged, the Panel considers that any further changes to this proposal should come as a new application.

Conditions: Not applicable

Panel members:

 John Roseth (chair)	 David Furlong
 Julie Savet Ward	 George Glinatsis

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SCHEDULE 1

1	JRPP Reference – LGA- Council Reference: 2014SYE016 Botany Bay DA13/271
2	Proposed development: Integrated Development for the demolition of existing buildings, excavation for a basement level of car parking and site remediation. Construction of four podium levels of car parking and one x 13 storey mixed-use building including 87m2 of commercial floor space fronting Church Avenue (Tower A), one x 13 storey residential flat building (Tower B), and one x 9 storey residential flat building fronting John Street (Tower C). The development comprises 59 x two bedroom units, 12 x one bedroom units and 9 studio units. The basement and podium car parking includes 152 car parking spaces
3	Street address: 27 Church Avenue and 18A Johns Street, Mascot
4	Applicant: Olsson and Associates Architects
5	Type of Regional development: Capital Investment Value > \$20M
6	Relevant mandatory considerations <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 and Draft SEPP 65 • Botany Bay Local Environmental Plan 2013 • Botany Development Control Plan 2013 • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality. • The suitability of the site for the development. • Any submissions made in accordance with the EPA Act or EPA Regulation. • The public interest.
7	Material considered by the panel: Council Assessment Report dated 7 April 2015 Written submissions during public exhibition: 17 Verbal submissions made at meeting on 16 April 2015: against: On Fu [on own behalf, and also on behalf of Alfie Cheng and Thomas Gregory]; Eleonora Paton, James Li, Marion Higgins and Ben Pomeroy [both on behalf of owner of 23 Church Ave] and Jason Capuano; on behalf of applicant: Samantha Czyz Written submissions received after last meeting: 15 Supplementary Council Assessment Report dated 1 May 2015 Supplementary Council Assessment Report dated 14 May 2015 Verbal submissions at the panel meeting on 14 May 2015: Against- Eleonora Paton, On Fu [on own behalf, and also on behalf of Thomas Gregory and Alfie Cheng], James Li, Jason Capuano, Yvonne Than and Siew Hiong Cheng; On behalf of the applicant- Russell Olsson Solar Access Review & Assessment dated 16 June 2015 Supplementary Council Assessment Report dated 26 June 2015 Supplementary Council Assessment Report dated 9 July 2015 Verbal submissions made at the panel meeting on 9 July 2015: On behalf of the applicant: Jenny Rudolph and Russell Olsson
8	Meetings and site inspections by the panel: Briefing Meeting on 5 March 2014, public meeting on 16 April 2015 and public meeting on 14 May 2015.
9	Council recommendation: Approval
10	Draft conditions: Attached to supplementary council assessment report dated 1 May 2015