

SYDNEY EAST JOINT REGIONAL PLANNING PANEL

Meeting held at Christies Conference Centre on Thursday 27 November 2014 at 10:00am

Panel Members: John Roseth (chair), David Furlong, Sue Francis, Jack Jacovou and Philip Sansom

Apologies: None - Declarations of Interest: None

Determination and Statement of Reasons

2014SYE110 – Hurstville - MOD2014/0102 [at 454-456 Forest Road, Hurstville] as described in Schedule 1.

Date of determination: 27 November 2014

Decision:

The panel determined to refuse the development application as described in Schedule 1 pursuant to section 96 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:




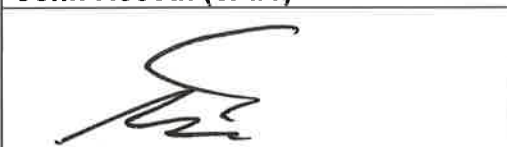
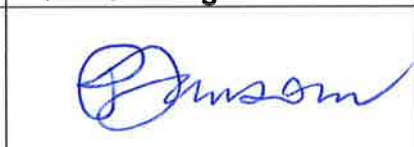
- 1) The Panel noted the applicant's request that the Panel defer the determination of the application pending the submission of amended drawings which reduce the above-ground FSR to 3:1; however, the Panel saw little utility in acceding to this request. In most cases, the Panel defers applications pending amended drawings when it is certain of the exact nature of the amendments it seeks. This is not the case here. However, there is no impediment to the applicant lodging another s96 application or another new application if it wishes to change the design of the proposal.
- 2) The reasons for the Panel's decision to refuse this application are as follows:
 - **Scale:** the Court-approved proposal already has a height in excess of that permitted by the Hurstville LEP 1994. The approved proposal responds to the taller buildings on adjoining sites but is visually subservient to them because it tapers at the top. The application seeks to infill the areas that tapered at the top of the tower, so that it no longer achieves a reduction in bulk. The proposed amendment would therefore increase the visual bulk of the development and undermine the intent of the setbacks and more slender form achieved by the approved proposal.
 - To the side and rear of the site, the proposed amendment seeks to extend the building envelope. This reduces the areas of setback and landscape on the podium and locates more massing closer to the adjacent developments and the proposed new laneway. The increased footprint to the west extends the building form along the proposed new laneway, as a continuous wall, from 10.8m to 20.5m. The approved proposal is already borrowing amenity across the laneway/setback provided by the adjacent site. Extending the wall on the boundary even further will locate mass in front of a side-facing apartment on the adjoining site, which was not the case for the approved proposal. The result would be to narrow the outlook for this apartment and for other secondary windows along that side boundary to an unacceptable degree.
 - The northern building increases its footprint towards the rear boundary and along both side boundaries. Expansion to the north would further reduce what is already too close a proximity to the rear boundary and adjacent development and would also reduce the limited planting possible there. It would increase the bulk and perceived impact of the proposal for adjacent properties.
 - **Built Form:** the proposed amendment seeks to infill areas that contributed, in the approved proposal, to a reduction in bulk for both buildings to the street and to adjoining sites. Since the approved proposal already enjoyed considerable relaxation of the height standard, the Panel considers that no further relaxation is justified.
 - The proposed amendment seeks to introduce smaller units within the development. This is achieved for the southern building by pushing a unit at each level into the middle of the proposal with frontage to the future laneway of the adjoining site. These units are of poor amenity with bedrooms relying for light and outlook on the balcony, which then has to be screened for privacy reasons.

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- **Density and Height:** the permissible FSR is 3:1. The Court-approved proposal has a FSR slightly above this at FSR 3.04:1. The proposed amendment seeks to increase the FSR significantly to 4.27:1 (including additional parking) or 3.31:1 (excluding additional parking). The additional height granted to the proposal (37.5m as against the permissible 23m) was justified on the grounds that the applicant could not achieve the permissible density without greater height. The applicant has more than achieved the permissible FSR in the approved application and there is no justification for further FSR.
- **Landscape:** the proposed amendment further reduces what is already limited amount of landscape area in the approved proposal.
- **Amenity of Apartments:** the increased bulk further reduces the separation distance between this site and the site to the west. This should not be further reduced as the approved proposal has already been given dispensation to locate some massing on the side boundary.
- The additional apartments that have been introduced have compromised amenity as they rely for their outlook for both living and bedroom on a narrow balcony with much of the apartment located away from the light source. These units will have restricted airflow.

Conditions: not applicable

Panel members:

 John Roseth (chair)	 David Furlong	 Sue Francis
 Jack Jacovou	 Philip Sansom	

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SCHEDULE 1

1	JRPP Reference – LGA- Council Reference: 2014SYE110 – Hurstville - MOD2014/0102
2	Proposed development: Section 96AA Modification – One additional basement level, alterations and additions to the approved mixed use development (12/DA-325) and internal reconfiguration to increase unit yield from 54 to 66 units
3	Street address: 454-456 Forest Road, Hurstville
4	Applicant: Elieti Pty Ltd
5	Type of Regional development: Development had a Capital Investment Value of more than \$20 million when originally lodged with Hurstville City Council
6	Relevant mandatory considerations <ul style="list-style-type: none"> • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No 55 – Remediation of Land • State Environmental Planning Policy No 65 – Design Quality of Residential Float Development • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • Hurstville Local Environmental Plan 1994 • Draft Hurstville (City Centre) Local Environmental Plan 2014 • Hurstville Development Control Plan No. 2 • 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: 17 November 2014 Written submissions during public exhibition: 4 Verbal submissions at the panel meeting: On behalf of the applicant- Elie Sakr, Tony Sakr, Eugene Sarich and Nick Lycenko
8	Meetings and site inspections by the panel: Briefing Meeting on 2 October 2014
9	Council recommendation: Refusal
10	Draft conditions: Not provided