

DETERMINATION AND STATEMENT OF REASONS

SYDNEY EAST JOINT REGIONAL PLANNING PANEL

DATE OF DETERMINATION	Thursday 17 November 2016
PANEL MEMBERS	John Roseth (Chair), Sue Francis, Julie Savet Ward, Peter Smith, Jane Fielding
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held at Christie Conference Centre, 3 Spring Street Sydney on Thursday 17 November 2016 opened at 10am and closed at 11:30am.

MATTER DETERMINED (AS DESCRIBED IN SCHEDULE 1)

2015SYE037 – Canterbury-Bankstown - DA566/2014 at 717-727 Canterbury Road, Belmore

PANEL CONSIDERATION AND DECISION

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.

The Panel determined to refuse the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The decision was 4:1 in favour of refusal. Against the decision was John Roseth (Chair).

REASONS FOR THE DECISION

The reasons for the decision of the Panel were:

The Panel in deferring the matter on 29 September 2016 sought, inter alia, clarification of the performance of the building having regard to the ADG and specifically solar access. The information provided suggests, at best, a 64% compliance of 2 hours between 9am and 3pm mid-winter. However, it is apparent that in coming to this figure no impact from the adjoining approved or development consistent with the controls has been considered. Were that to have been done, it is the majority of the Panel's view, that solar access would be significantly less and unacceptable.

As a consequence, the majority of the Panel considers the proposal is an over-development of the site by virtue of:

- Inadequate site planning and building layout
- Insufficient solar access to units
- Poor apartment orientation
- Cross ventilation that relies on mechanical means
- Units that don't have any sunlight between 9am-3pm mid-winter greater than 21% (as indicated by the applicants consultant) and significantly greater than the 15% in the ADG
- Impacts on inter-unit and adjoining unit privacy






The majority of the Panel considers that an alternate building footprint and configuration with, inter alia, the likely reduction in length of the northern building may achieve an acceptable proposal.

John Roseth (Chair) disagreed with the majority decision and voted to accept the recommendation of the planning assessment report to approve the application for the following reasons:

- While the solar access of the proposed apartments is poor, he accepts Dr King's opinion that this is a result of the site's constraints, in particular the impact of surrounding buildings. Moreover, in his opinion, poor solar access which is the result of site constraints, is not a sufficient ground for refusal.
- The only development control that applies to the site is the maximum height of 18m. The proposal's non-compliance with this control is minor and due to the site's topography. The height variation is also justified by the heights of surrounding buildings recently given consent.
- The Panel has deferred this application twice without giving indication that it finds such fundamental flaws in it as to justify refusal.

CONDITIONS

Not applicable

PANEL MEMBERS	
 John Roseth (Chair)	 Sue Francis
 Julie Savet Ward	 Peter Smith
 Jane Fielding	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2015SYE037 – Canterbury-Bankstown - DA566/2014
2	PROPOSED DEVELOPMENT	Demolition of existing structures and construction of a 6 storey mixed use development with basement parking
3	STREET ADDRESS	717-727 Canterbury Road, Belmore
4	APPLICANT: OWNER:	Architecture and Building Works Belmore 88 Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Capital Investment Value >\$20 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development, State Environmental Planning Policy (Building Sustainability Index) BASIX 2004, State Environmental Planning Policy No.55 – Remediation of Land, State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy (State and Regional Development) 2011, Canterbury Local Environmental Plan 2012, Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Canterbury Development Control Plan 2012 Planning agreements: Nil <i>Environmental Planning and Assessment Regulation 2000</i>: Nil 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 <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 21 March 2016 Council supplementary reports: 20 September and 8 November 2016 Written submissions during public exhibition: 4 Verbal submissions at the panel meeting 31 March 2016: <ul style="list-style-type: none"> Object – Barbara Coorey On behalf of the applicant – Theo Loucas Verbal submissions at the panel meeting 29 September 2016: <ul style="list-style-type: none"> Object – Barbara Coorey On behalf of the applicant – Theo Loucas Verbal submissions at the panel meeting 17 November 2016: <ul style="list-style-type: none"> Object – Barbara Coorey On behalf of the applicant – Theo Loucas
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing Meetings: 6 May 2015, 31 March 2016, 29 September 2016 and 17 November 2016 Panel Meetings: 31 March 2016 and 29 September 2016 (matter deferred at both meetings)
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report