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Our ref CJT:ALO:3773490

11 December 2015

BY EMAIL: jrppenquiry@jrpp.nsw.gov.au
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Mr John Roseth
Chair, Sydney East Joint Regional Planning Panel
C/- Joint Regional Planning Panels Secretariat
GPO Box 39
SYDNEY NSW 2001

ATTENTION: Ms Angela Kenna

Dear Mr Roseth

2015SYE114 Canada Bay, DA 2015/0332 – Response to Gadens Lawyers' Written Objection

We act for Scalabrini Village Limited in this matter.

We refer to the Sydney East Joint Regional Planning Panel's (**JRPP**) meeting on 12 November 2015 and the subsequent Record of Deferral of Development Application No. 2015/0332 (**DA**).

We also refer to Gadens Lawyers' written objection of 20 November 2015 concerning the DA.

In response to the matters raised at the JRPP meeting on 12 November and the written objection of 20 November 2015, in addition to this letter, please find **enclosed**:

- (a) The Joint Opinion of Mr Chris McEwen, Senior Counsel and Mr Mark Seymour, Counsel dated 9 December 2015; and
- (b) A short letter supplementing each of the clause 4.6 variations prepared by JBA Urban Planning Consultants Pty Ltd, dated 10 December 2015.

Relevantly, it is the opinion of both Counsel and Senior Counsel that the SEPP 1 objection and clause 4.6 variations forming part of the DA contain relevant information sufficient to enliven the JRPP's jurisdiction to determine the DA.

With regard to the Joint Opinion, we request that the JRPP assess and determine each of the four statutory objections forming part of the DA, regardless of whether or not the JRPP considers that they are all relevant or necessary. We also request that the JRPP determine the DA with specific reference to that assessment. This request is made to ensure, as far as possible, that any challenge to development consent which might be granted will be unlikely to succeed due to lack of jurisdiction.

In our view, it is entirely open to the JRPP to reach a conclusion in relation to this DA that there is no legal impediment to the grant of development consent.

With regard to paragraph 3 of the Record of Deferral, we understand that the JRPP is to determine the DA by communicating via electronic means, unless it becomes convinced that a further meeting is required.

If the JRPP's own advice differs in a material respect to the Joint Opinion, which is relevant to the JRPP's determination of the DA, we request that the JRPP reconvene so that our client is able to make further oral submissions to the JRPP in relation to this issue, prior to the DA's final determination.

Thank you for the opportunity to provide the JRPP with this response.

If you have any questions, please contact us.

Yours faithfully
THOMSON GEER



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Copy to Canada Bay City Council.

Encl Joint Opinion of Mr Chris McEwen, Senior Counsel and Mr Mark Seymour, Counsel of 9 December 2015.

Letter prepared by JBA Urban Planning Consultants Pty Ltd of 10 December 2015.