

DETERMINATION AND STATEMENT OF REASONS
SYDNEY EAST JOINT REGIONAL PLANNING PANEL

DATE OF DETERMINATION	9 November 2016
PANEL MEMBERS	Sue Francis (Chair), Julie Savet Ward, Michel Reymond
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held at Christie Conference Centre, 3 Spring Street Sydney on Wednesday, 9 November 2016, opened at 10:00AM and closed at 11:30AM

MATTER DETERMINED

2016SYE015 – North Sydney - DA 487/15 - 229 & 231 Miller Street North Sydney (AS DESCRIBED IN SCHEDULE 1)

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 defer the determination of 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 unanimous.

REASONS FOR THE DECISION

The reasons for the decision of the Panel were:

The Panel has heard from the objector in relation to concerns with the proposal's non-compliance with the ADG provisions and the impact of this on neighbouring properties and particularly any impact from the potential redevelopment of 41 McLaren St on the site.

The Panel is aware that the subject development will not achieve the building separation and solar access requirements of SEPP 65 and the ADGs, however given the applicable height control, zoning, the site context and the history of similar approved development in the immediate vicinity of the site, the proposed development is considered to adequately respond to the site constraints and would generally achieve the built form anticipated at the site.

In relation to solar performance and internal unit amenity, the further amendments and apartment reductions (from 117 to 91) have improved solar performance to what is now considered to be acceptable and supportable levels.

The Panel accepts that the amended plans improve the compliance from previous plans particularly the concerns from views from 225 Miller St. By virtue of the now more sensitive design of the upper levels the Clause 4.6 variation in relation height is considered acceptable.

The supplementary report has considered the amended proposal against the requirements of all relevant environmental planning instruments, including SEPP 65 and the ADGs. Specific consideration has been given to the building separation and amenity requirements of the ADGs owing to the highly constrained nature of the site.

On balance, the development is considered to adequately respond to the amendments requested by the Panel and site constraints. However, due to outstanding issues arising from the proposed stormwater management of the subject site and the adjoining property at 231 Miller Street, a deferred commencement consent is recommended. However there is an outstanding matter which prevents the Panel from granting consent at this time. That is:




- An executed Deed of Agreement for Rail Contributions as required pursuant to Clause 6.5 railway Infrastructure and endorsed as required in writing by the Department of Planning has not been finalised by the applicant.

Accordingly, the Panel resolves that it is minded to grant consent to the proposal for the reasons expressed above. However, the matter should be reported back to the Panel after receipt of the finalised "Railway Deed" at which time it will determine the matter by electronic means. Any such determination must occur before 20 November 2016 after which the SE JRPP ceases to exist. In such circumstances the consideration of this DA will need to be resubmitted to SPP North.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the following amendments.

- Amendment to C3 to add, "...and provided to the owner of affected adjoining properties" and delete, "agreed to by both the applicant and the owner of the adjoining property."
- Amendment to C24 c) the storage area must be adequately screened from the street, with the entrance to the enclosures no more than 2m from the street boundary of the property (being the eastern boundary of the site)
- Amendment to C24 d) add: (being the eastern boundary of the site) as above
- C35 delete all words up to: "These features are to" and add, "Fourteen (14) units".
- Amend all conditions to reference which works are to occur prior to the "relevant CC"

PANEL MEMBERS		
 Sue Francis (Chair)	 Julie Savet Ward	 Michel Reymond

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2016SYE015 – North Sydney - DA 487/15
2	PROPOSED DEVELOPMENT	Demolition of existing apartment building and construction of 20 level mixed use building comprising retail / commercial and 117 apartments with basement parking for 93 cars with minor works to 231 Miller Street.
3	STREET ADDRESS	229 & 231 Miller Street North Sydney
4	APPLICANT / OWNER:	Yaver 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"> North Sydney LEP 2013 - Zoning – B4 Mixed Use SEPP No. 55 – Remediation of Land SEPP No.65 – Design Quality of Residential Flat Development – Apartment Design Guide SEPP (Building Sustainability Index: BASIX) 2004 SREP (2005) – Sydney Harbour Catchment Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> North Sydney DCP 2013 Section 94 Contributions Planning agreements: <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: 25 October 2016 Council supplementary report: 17 August and 3 November 2016 Written submissions during public exhibition: Six (6) submissions (Original Proposal), Two (2) to previous amended proposal, Two (2) to subject amended proposal Verbal submissions at the panel meeting 23 June 2016: <ul style="list-style-type: none"> Object – Adrian Melo, Walter Gordon On behalf of the applicant – Jacinta Reed Verbal submissions at the panel meeting 24 August 2016: <ul style="list-style-type: none"> Object – Adrian Melo, Walter Gordon On behalf of the applicant – Paula Mottek Verbal submissions at the panel meeting 9 November 2016: <ul style="list-style-type: none"> Object – Michael Harrison On behalf of the applicant – Jacinta Reed, Steve King
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing meetings: 4 April, 23 June, 24 August and 9 November 2016 Public meeting on 23 June & 24 August 2016
9	COUNCIL RECOMMENDATION	<ol style="list-style-type: none"> Deferred for approval (deed of agreement) Deferred Commencement Approval
10	DRAFT CONDITIONS	As per the council supplementary report