PROPOSED DEVELOPMENT AT MORTLAKE

MP10_01564

14-22 HILLY STREET, MORTLAKE

ADDITIONAL SUBMISSION BY LAURIE IHNATIV, BE, MEngsC, MBA, FIE Aust

This additional submission has been prepared in response to the Preferred Project Report (PPR), Mortlake Concept Plan, by Mecone and dated October, 2012.

Prior to addressing specific issues contained in my original submission I would like to comment on the section about economic feasibility of the project given in the Executive Summary. It seems that at FSR of 0.75:1 the project is not economically feasible. Since the return is a function of the price paid, it can only be concluded the proponent paid too much for the land to achieve the required returns. Why is it that the current and future residents of Mortlake/Breakfast Point are required to pay the consequences of overdevelopment of the site and increased traffic because of poor economic decisions by the proponent? In my view the economic feasibility should not be a consideration in the approval process.

The PPR does little to address the issues raised points 1 to 5 of the previous submission. Of particular concern is what can only be described as total disregard of the issues and shortcomings of the assessments carried out and noted in my previous submission. A copy of the previous submission is attached. Unfortunately, to address the statements made in the PPR it is necessary to repeat some parts of the previous assessment.

1. Section 2.4.5 of the report addresses SEPP 55 issues. Correctly it is stated that "SEPP 55 requires that prior to the granting of consent to any development that consideration be given to whether or not the land is suited to the intended use of the land with respect to potential soil and groundwater contamination."

   In section 3.4 of the report referenced A1 it is stated " … it is noted the actual groundwater level can be assessed only upon installation of water monitoring wells across the site. The references taken from our previous limited works are for indicative purposes only and should not be taken as definitive." This is an admission by their own consultants that they have not investigated groundwater.

   In reference A3 the consultant readily and correctly acknowledges that semi volatile and volatile compounds are some of the contaminants of concern. Some of these solvents are heavier than water which means they will descend to a depth defined by available flow paths such as joints and fractures in the rock. The consultant has not installed a single groundwater monitoring well that penetrates the full depth of the proposed excavation. Therefore, the presence of these solvents has not been properly assessed including offsite migration. Remediation of groundwater containing volatile compounds can be a very expensive exercise particularly if offsite migration has occurred. The discussions regarding groundwater in reference A5 are have no basis in fact particularly the assertion that the

groundwater contamination is expected to be low on the former paint factory site. The reality is that the PID readings taken (refer to publication A3) indicate the presence of volatiles in the soil on the site. No groundwater samples were tested for the presence of volatiles, therefore to suggest that the contamination in the groundwater is low has no basis in fact.

Mecone state " … the Stage 2 assessment went beyond the scope of study required by the Director-General ….". Even if this is the case it does not meet the requirements of a Stage 2 Detailed Site Investigation outlined in SEPP 55. Even though the number of sampling locations meet the guidelines, the consultant did not test all the samples and therefore to suggest the assessment meets the requirements is misleading. Also the testing regime undertaken is flawed, as detailed in the previous submission.

Mecone states "in summary, subject to the removal of localised contaminated soils,(which would largely be removed anyway in place of excavated basements) … the site is considered to be suitable to the proposed development and thereby satisfies the provisions of SEPP 55." For the reasons noted in the preceding paragraphs, this statement is incorrect, particularly when the assessment of the groundwater (more precisely the absence) is taken into consideration. The reports submitted do not fulfil the requirements of SEPP 55 or the Director-General's requirements.

2. Table 6 – Summary of responses to all submissions.

   E2 – general remediation and query whether remediation is part of the concept plan. The response indicates remediation works are proposed as part of the development. As highlighted above and in my previous submission the extent and nature of the remediation has not been properly assessed and the reports provided are flawed and do not meet the requirements of SEPP 55.

   E3 – Environmental report is out-dated. The response is that the environmental report is sufficient for Concept Plan application. Even if it is it does not fully satisfy the requirements of SEPP 55 and therefore does not meet the requirements of the Director-General.

3. Table 14 – Revised Statements of Commitments.

   Item 7 – Contamination, Salinity and Hazardous Materials. The commitment is to " … implement all recommendations made by Aargus in the Environmental Site Assessments and Salinity assessments accompanying this application." There was no salinity assessment contained in the documents provided to support the application. This is contrary to the Director-General requirement in Item 9. I have also not viewed a hazardous material assessment for the sites.

   Item 8 – Geotechnical Assessment. The commitment is to adopt the recommendations given in section 4.7 of reference A1. One of the recommendations is to install groundwater monitoring wells which is commendable. The issue here is that Item 13 of the Director-General's requirements is to consider the impacts of the proposed development on

groundwater. The fact that this information is not being supplied at this time is contrary to requirement of Item 13.

In summary, it is has been demonstrated that the proponent has failed to satisfy Items 9 and 13 of the Director-General's requirements as well as SEPP 55. The reaction to date has been, oh that will be looked in at a later date. The proponent has decided to use a Part 3A application to circumvent Council controls as is their legal right to do. Having done so, it is incumbent on the proponent to comply with ***all,*** not some most of, the Director-General requirements as part of his submission.

Groundwater contaminated with volatile compounds potentially has serious human health consequences. The current assessments do not properly address the issue.

As noted in my previous submission I am not opposed to the proposed development per se, however, it must be undertaken in a proper manner including the planning and approval processes together with due regard to all stakeholders and their concerns. On that basis the application should be refused until the issues raised here and by others, have been properly addressed. These include overdevelopment of the site and traffic concerns.

References

- Preliminary Geotechnical Investigation, Majors Bay Development, prepared for Mortlake Consolidated Investments Pty Ltd, by Aargus Australia dated 21st December 2010, Report No. GS3944 (A1)
- Groundwater at Majors Bay Project, dated 1st April 2011, by Aargus Australia (A2)
- Environmental Site Assessment, Bennett Street Mortlake, NSW, Site 1 prepared for Mortlake Consolidated Investments Pty Ltd dated June 2004 and prepared by Aargus Australia (A3)
- Addendum Environmental Assessment, Precinct 1-6 within Northcote Stet, Hilly Street & Bennett Street, Mortlake prepared for Mortlake Consolidated Investments Pty Ltd dated March 2011 by Aargus Australia (A5)

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I object to the proposed development on a number of counts.

I do not object to development of the site. It, together with much of land on the Mortlake Peninsula, is ready for renewal and will provide part of the much-needed housing for Sydney's future.

My objections are:

1. SCALE

The scale of the development proposed exceeds the scale of other developments nearby except for Breakfast Point (see later comment) eg. The Hilly Street frontage height is 250% greater than the Council LEP maximum permissible height.

The FSR sought is greater than that currently allowed under the City of Canada Bays LEP and would result in a much greater concentration of housing in this small area with consequential greater demand on services and infrastructure. The FSR is some 91% greater than the current maximum permitted FSR.

The developer has indicated that the scale proposed is required to recoup the significant remediation costs required for the project. In effect, the developer is saying because he paid too much for the land, the local community should bear the cost. This is inequitable and unacceptable.

2. PRECEDENT

To agree with the developer's request will result in other sites seeking to use it as a precedent thus exacerbating the overdevelopment of the area. Similarly, to agree to the request without later agreeing to use it as a precedent will create inconsistencies with other current and future approvals nearby. As only 25% (approx.) of the potential redevelopment of Mortlake is currently known there is the real potential for ongoing disputation.

The proposed relies on Breakfast Point as the precedent. This does not recognize that Breakfast Point has had an impact on the locality (as compared to what it was before Breakfast Point came on the scene) and this impact has to be taken into account. To simply say that because Breakfast Point has 9 storey buildings this development can/should have 9 storey buildings does not take into account the (negative) impact that Breakfast Point produced on the locality in terms of people density, traffic, recreation facilities, commercial facilities etc. Moreover, just because Breakfast Pint has 9 storey buildings it does not follow that it was right to permit buildings of that height and that the process should be repeated.

3. TRAFFIC

The demand on infrastructure especially roads and services is already high. The ever-escalating number of variations at Breakfast Point where the Developer has increased the number of dwellings on site from 1650 to 2250 (37%) has impacted on traffic, parking and services. These numbers have created additional traffic flows and parking demands that have not been considered.

The developer is relying on the availability of parking on the public roads to satisfy the parking requirements of the development. In part it is assumed that he is relying on parking within Breakfast Point where all roads are private roads. Breakfast Point already has night parking problems and that development is some five years from completion.

The parking should be provided on subject site.

4. RECREATION FACILITIES

There is no provision for recreation facilities on site. A development of this size should make such provisions.

It is for the above reasons we believe that the proposal in its present form should be rejected.

5. I submit that

- The project be considered under City of Canada Bay LEP to ensure consistent and proper planning for the Mortlake Peninsula.
- The matter be held over until a traffic study is undertaken incorporating the future full development of the Peninsula. This study to include the growth of Breakfast Point via various approvals given by DoP.
- There should be no buildings over 5 storeys.
- The local community should not be burdened with the consequences of the developer paying too much for the land.

6. ENVIRONMENT & GEOTECHNICAL ASPECT

Reference is made to the documents submitted by the developer in support of the application. Prior to discussing specific items in the reports it is worth highlighting some background information. The project requirements are given in the Director-Generals (DG) requirements. Items 9 and 13 are reproduced and discussed below.

9. Contamination and Human Health Risk Assessment

Contamination and potential human health risks associated with the proposal should be identified and addressed in accordance with SEPP 55 and other relevant legislation and guidance and should consider the impact on human health. This assessment should also include an analysis of any risks/hazards associated with urban salinity.

13. Geotechnical & Hydrological Requirements

The EA shall provide a Geotechnical and Hydrological assessment addressing the proposed excavation and the adjoining properties and structures), construction, impact on groundwater, likely vibrations and any requirements for vibration monitoring and any recommendations for a dilapidation survey.

SEPP 55 has a decision making process for land use changes. These are:

1. Initial evaluation. Is contamination an issue?
2. Is the information sufficient to consider options and make decisions?
3. If yes, the planning authority makes planning decisions.
4. If no, the proponent needs to provide further information to show the land is suitable for the proposed use. This may include one or more of the following:
   Stage 1 – Preliminary Investigation
   Stage 2 – Detailed Investigation
   Stage 3 – Remedial Action Plan
   Stage 4 – Validation & Monitoring

It is contended that the information provided by the developer does not meet the DGs requirements and in respect to SEPP 55, provides insufficient information to make a decision.

A number of reports were provided in support of the application. The ones specifically examined for this submission are as follows:

- Preliminary Geotechnical Assessment, Majors Bay Development, prepared for Mortlake Consolidated Investments Pty Ltd, by Aargus Australia dated 21st December 2010, Report No. GS3944 (A1)

- Groundwater at Majors Bay Project, dated 1st April 2011, by Aargus Australia (A2).

- Environmental Site Assessment, Bennett Street Mortlake, NSW, Site 1, prepared for Mortlake Consolidated Investments Pty Ltd dated June 2004 and prepared by Aargus Australia (A3).

The data to support the discussions, finding and conclusions given in reports A1 and A3 was not attached to the reports. Because this information was not available it was at times difficult to make a proper assessment of the information presented. There were no site plans showing borehole or sample locations. There were no test results to ensure quality control and assurance was maintained when using the data for inclusion in the reports, particularly A3.

Report A1 states basement excavations for the various buildings range from about 2 metres to 12 metres below the existing groundsurface. The deepest excavation would be for the proposed 9 storey building which is part of Site 1. In this report it is stated that all the boreholes were drilled using a hand auger. When discussing groundwater this report states in Section 3.4 ... *"it is to be noted the actual groundwater level can be assessed only upon installation of water monitoring wells across the site. The references taken here from our previous limited works are for indicative purposes only and should not be taken as a definitive."*

In A2 it is stated that *"...with the exception of 3 locations, groundwater was not encountered..."* and *"... any groundwater would be considered perched and boreholes from all the investigations show shallow rock is encountered across most of the proposed development..."* It is agreed that often a perched water table is encountered at the soil/rock interface. Based on the data given in Table 1 in A1, except for a few locations sandstone bedrock could not be confirmed. This is a common problem when using a hand auger rather than a hydraulically operated drilling rig. It is not uncommon to encounter groundwater within the sandstone. Unless boreholes are drilled to below the proposed excavation depth and monitoring wells installed, it is not possible to definitively state there is no groundwater present. The lack of these deep groundwater monitoring wells is considered to be a significant oversight.

Report A3 notes that in relation to Site 1, *"... the site has most recently been used by Paint Industries (Aust) Pty Ltd which is owned by Anzol Pty Ltd. During this time, it was mainly used for the manufacture of paints and resins..."* It is stated, *"The prime objective of this ESA was to assess the likelihood and/or extent of significant soil and groundwater contamination..."* From the site history the most likely contaminants of concern were identified as; metals, asbestos, PCBs, PAH, TPH, BTEX, semi volatile and volatile compounds. It is agreed that these are the likely contaminants. As stated in the report 21 sample locations are required to adequately characterize the site. It is therefore unclear why only 8 samples were tested for volatiles when this compound presents a significant risk, particularly if chlorinated hydrocarbons were used for cleaning equipment. It is stated solvent odours were detected in four boreholes, BH10, BH11, BH15 and BH17, yet in the VOC testing was undertaken only in BH10 at a depth of 0.5 metres and BH17 at a depth of 0.5 metres. Both of these showed a positive result, yet samples collected below these depths in BH10 and BH7 were not tested to determine the presence of VOC. Therefore, no conclusion can be drawn regarding the vertical movement of the VOC through the soil. Because, the laboratory test results were not available it is not possible to determine which particular contaminant was detected. No reason is given as to why VOC testing was carried out at the other locations tested. One can only assume these were randomly selected. The normal practice on a high risk site is to use a photo ionization detector (PID)

to select the samples to be tested. If a PID is not used, then all the samples should have been tested for the VOCs.

Some of the VOC are heavier than water and can therefore move to below the water table. Without installing monitoring wells to below the proposed excavation depth and assessment cannot be made of the potential vapour risk posed by the VOCs to the proposed development. The absence of this vapour risk assessment is considered to be a significant deficiency in the site characterisation of this high risk site.

Report A3 discusses the use of statistics to determine the degree of contamination. Acceptable methods are given in EPA (1994), Sampling Design Guidelines. Two methods are given to determine the 95% Upper Confidence Level (UCL) of the arithmetic average concentration. These methods are identified as Procedures D and G. The normal practice is to select which procedure to use by calculating the coefficient of variation (CV) as follows:

$$CV = \frac{\text{Standard deviation}}{\text{Average}}$$

At the bottom of Tables 4 and 5, the 95% UCL value is given for the compounds tested. The A1 report notes that Procedure D has been used to undertake the 95% UCL value for the contaminants. If the CV is greater than 1.2, EPA (1994) indicates Procedure G should be used, not Procedure D. Twelve of the eighteen CV values exceed this 1.2 value. Therefore, the statistics used are misleading and any conclusion drawn from their use questionable.

In summary, the following can be stated:

- Site 1 is a high risk site from a contamination perspective.
- VOCs are a contaminant of significant concern.
- Proper screening using a PID to select the test samples was not carried out. Therefore, the presence of VOC could have gone undetected in some soil samples.
- Groundwater monitoring has not been undertaken. The wells should go to below the proposed excavation level. As an absolute minimum there should be line along the boundary on the low side of the site. Because of the presence of VOCs, the absence of monitoring wells is considered to be a significant omission.
- The presence of the VOCs means there is a risk of vapous in the basement excavations which has not been addressed.
- The statistical method used to calculate the 95% UCL value for the site compounds is questionable.
- There is insufficient information available to adequately characterize the site.

The above deficiencies/inadequacies means that there is insufficient information available to properly assess the risks to human health and the environment for the proposed change of site use. Without additional data collection development approval at this stage is considered to be contrary to the intent of SEPP 55 and item 9 of the DG requirements.

Item 9 of the DG requirements specifies that urban salinity is to be included in the assessment. The requirements for this type of assessment are given in "Site Investigations for Urban Salinity" (2002) by Department of Land and Water Conservation." Urban salinity has not been addressed in the assessment presented and therefore is contrary to the DG requirements.

Item 13 of the DG requirements specifies a hydrological assessment is to be provided. The very limited groundwater information provided as references in report A1 means this DG requirement has not been satisfied. In this regard the assessments carried out to date are considered to be completely inadequate.

In conclusion, the DG requirements for items 9 and 13 have not been satisfied. There is insufficient data available to characterise Site 1 and approval should be declined until these have been provided.