

10 May 2013

**NSW Planning Assessment Commission's Determination Report on the
Concept Plan application for residential development at Hilly Street, Mortlake
Canada Bay Local Government Area**

Concept Plan Proposal

Mortlake Consolidated Pty Ltd (the Proponent) proposes to develop 15 residential flat buildings, of between 3 and 7 storeys on land fronting Majors Bay and Hilly St in Mortlake. The buildings would accommodate up to 391 units. Approximately 700 parking spaces would be provided along with 5,867 m² of public open space.

Department of Planning and Infrastructure's Assessment

The Department of Planning and Infrastructure assessed the application and referred it to the Planning Assessment Commission for determination. The Department's assessment (the Director-General's Environmental Assessment Report) considered the following key issues:

- Density;
- Built form;
- Residential Amenity;
- Open Space;
- Traffic and Transport; and
- Contamination.

Developer contributions, unit mix and staging are also discussed. The Department recommended the concept plan should be approved, subject to modifications in relation to the dedication of land and landscaping.

Delegation to the Commission

The proposal has been referred to the Commission for determination under the Minister's delegation date 14 September 2011.

The Chair of the Planning Assessment Commission, Ms Gabrielle Kibble AO nominated Mr Garry Payne AM (Chair) and Ms Abigail Goldberg to constitute the Commission for the project.

Site Visit and Meetings

The Commission visited the site and surrounds on 8 April 2013.

As the City of Canada Bay Council had raised objections to the proposal the Commission offered to meet individually with both Council and the Proponent.

The Council declined a separate meeting with the Commission but registered to speak at the Public Meeting, discussed below.

The Commission met with the Proponent on 15 April 2013. The Proponent briefed the Commission on the background of the site and the proposal and explained the amendments it had made in response to submissions. These included building realignments, along with reducing the maximum number of storeys (from 9 to 7) and increasing the public open space from 4846 m² to 5,867 m². The Proponent indicated that the proposed buildings could comply with SEPP 65 and that the proposed density is consistent with other developments in the area.

In regards to traffic, the Proponent indicated its traffic assessment had shown that the traffic from the proposed development could be accommodated on the surrounding local road network. Nonetheless the Proponent acknowledged the broader traffic issues for access to arterial roads and agreed in general terms to the upgrading of two intersections with Concord Road (the intersections with Patterson and Wellbank Streets). The Proponent requested a caveat however, that if a local intersection (closer to the site) required upgrading that the Proponent could undertake this upgrade instead (as it would be more useful to the local residents).

Public Meeting

On 2 May 2013 the Commission held a public meeting at the Canada Bay Club in Five Dock. Twenty one people spoke at the meeting, including representatives for the City of Canada Bay Council. See appendix 1 for a list of speakers.

The issues raised at the meeting focused primarily on the proposed floor space ratio, which is higher than the Council's controls. The key concern arising from this higher floor space ratio was the higher than planned population density and ensuing vehicle traffic levels, in terms of congestion, safety and parking.

Council noted that the additional housing numbers are not required as it is on track to meet its dwelling targets. In keeping with the Metropolitan Plan for Sydney, it is focusing higher density development around key centres and transport nodes. Council does not support higher density development in this out of centre location, with limited public transport. Council also noted the proposal would exceed the floor space ratio controls in its new draft LEP.

Concerns were raised that the proposal is inconsistent with the Council's strategic planning for the area. This was raised as a particular concern given that the new White Paper – A New Planning System for NSW and draft legislation provide greater emphasis on strategic planning.

The potential to set a new precedent for height and floor space ratio in the area was also a concern, along with anxiety regarding 'development creep', which was described as developers increasing density beyond that initially approved once construction has commenced.

Anticipated impacts on infrastructure and services, stemming from the higher than planned population and traffic volumes was raised, both in relation to the proposal itself and the potential cumulative impacts should this development set a precedent for the remaining land to be developed. Council expressed concern that the Section 94 developer contributions would be inadequate for a development of this density and that a Voluntary Planning Agreement would only be acceptable if negotiated and agreed prior to approval.

Many local residents indicated that they supported some form of redevelopment of the site as it is largely derelict, with the remaining industrial uses no longer compatible with the new residential developments in the area. Nonetheless, many residents objected to this proposed redevelopment, as it was considered an overdevelopment of the site.

A small number of speakers supported the proposal, noting that it would:

- remediate the contamination on site;
- greatly improve the amenity of the site, much of which is currently abandoned and accumulating waste;
- provide public access to the foreshore;
- remove the current land use conflict with the existing industrial uses;

- improve land values throughout the area;
- be smaller than the original proposal; and
- attract more people, investment and infrastructure, such as public transport and local shops.

Others expressed concern at the rate of change in Mortlake noting that its small suburb size, maritime history and current eclectic combination of uses are integral to its unique character. In this context the speaker argued the proposal posed an unacceptable impact on the skyline and that the height of the buildings should be reduced.

Specific concerns about traffic related to:

- the constraints posed by the peninsular, which restricts travel route options;
- limited options to improve the capacity of the local road network;
- poor levels of service at intersections accessing main arterial roads, such as Parramatta Road and Concord Road;
- the close proximity to the Mortlake Ferry (Putney Punt) which generates queues on Hilly Street (and waiting times of up to 30 minutes), potentially blocking vehicle access to the site, as well as properties to the north;
- parking provisions, particularly noting the visitor parking provisions do not comply with Council requirements;
- amenity impacts of increased traffic;
- impacts of bicycles on narrow roads; and
- lack of viable public transport options.

Other issues raised included:

- the height of the buildings and associated view loss impacts;
- concern about the proposal's reliance on bicycles to solve the traffic issues;
- impacts of the increased population on schools and childcare places;
- uncertainties regarding the detailed design, including the potential for 'developer creep';
- the quality of the design; and
- potential impacts on local property values.

Commission's consideration

During the Commission's inspection of the site and surrounds, the Commission noted the dilapidated state of much of the site, along with the limited foreshore access. Several recent developments proximate to the site were also noted, as well as general indicators of regeneration across the area, including the transition from industrial to residential use; introduction of retail and mixed uses, including cafes and restaurants; and upgrading of homes. The successful retention and integration of several heritage features into new developments was also recorded.

The key issues that emerged for the Commission are:

- Contamination
- Built form
- Traffic
- Parking
- Foreshore access
- Developer contributions
- Precedent

These matters are discussed in detail below.

Contamination

As a large portion of the site was previously occupied by a paint factory, the Commission considers the contamination and remediation of the site to be a key issue of concern integral to its consideration of the proposal. The Department's assessment provides little detail of the levels of contamination present and proposed remediation works but the Commission notes that the EPA requested further information regarding the contamination and proposed remediation of the site and that a site auditor subsequently found the site is capable of being remediated to a level suitable for residential development.

The Department recommended a future environmental assessment requirement for interim advice on the remediation action plan and a site audit statement – following remediation. However, given the site's industrial history the Commission notes that remediation will be essential for the proposed residential use of the site. The remediation will also significantly improve the site and reduce any risks to the surrounding soil and water.

While the Commission notes the site auditor's opinion that it is possible to remediate the site to a level suitable for residential purposes, it considers that planning for the remediation work should be completed prior to any construction on the site as unanticipated contamination issues could influence the staging of works. Further the Remediation Action Plan should demonstrate (with the endorsement of an accredited site auditor) how, and at what stage, each portion of the site will be made suitable for residential use.

Built form

The key concern from objectors in relation to built form is the floor space ratio and its implications for increased traffic. Height was also raised as a concern.

The Commission has considered the proposed building envelopes within the context of the site, noting that the Proponent's holding is overall reasonably large as a result of the paint factory site having been consolidated with adjoining lots, and that the proposed building envelopes are very similar in scale to a number of existing developments nearby, and smaller than several Breakfast Point envelopes.

The Commission considers this consolidated site to have the capacity to accommodate the proposed buildings, which can be designed and positioned to take the neighbouring built forms, heritage, landscape and skyline into consideration. The proposal is also able to comply with design quality and amenity requirements as set out in *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings* and the *Residential Flat Design Code*, while achieving foreshore access and setbacks, and providing public open space. In the context of the site and surrounds the Commission is comfortable that the proposed building heights and floor space ratios can be suitably accommodated on site.

As noted by some speakers at the public meeting, the detailed design for the buildings is not yet available as the proposal is a concept plan only. The Commission considers that quality design will be essential to ensuring the buildings adequately respect the site context and fit within the surrounds. The Department has recommended a requirement for design excellence, including the use of high quality materials and finishes, which the Commission supports. The Commission also notes that the industrial history of the area was identified as a key characteristic of Mortlake's unique identity. Consequently the Commission has added an additional requirement that the future applications on the site must respond to Mortlake's industrial heritage and retain links to its industrial character.

Traffic

The key objection to the floor space ratio exceedance related to the increased traffic volumes that would be generated from the higher on site population than Council has planned for. The Commission notes that both the Council and the Department of Planning

and Infrastructure engaged independent traffic experts to consider the potential traffic impacts. The advice commissioned by Council identifies some potential deficiencies with the Proponent's traffic assessment, but nonetheless concludes that the additional traffic generated by the proposal in isolation is likely to be manageable. The key concern raised by Council's traffic consultant is that the proposal could set a precedent for other development in the area and that the cumulative impacts of higher traffic volumes would prove unacceptable and beyond Council's fiscal capabilities to remediate.

The Commission acknowledges the concerns regarding cumulative impacts - should the proposal set a precedent for other developments. However in considering the traffic impacts of this proposal, the expert advice indicates that the additional traffic volumes can be managed. Notwithstanding this, the Proponent will provide upgrades to two intersections on Concord Road, at Wellbank and Patterson Streets (or equivalent road upgrades or contributions). The Commission is satisfied that the traffic volumes generated by this proposal can be adequately accommodated on the local road network.

Parking

Some speakers raised concerns that the visitor parking provisions would not comply with Council's requirements. The Commission has considered this issue and notes that visitor parking would be provided at a rate of 1 space per 5 units. This is consistent with Roads and Maritime Services minimum requirements as well as the requirements of a number of other Councils in Sydney. The Commission is satisfied that 1 space per 5 units is adequate in this instance.

Foreshore upgrades and public access

Foreshore access to Majors Bay is currently limited, with fences and obstructions on various sections of the site and surrounding area. The proposal will provide foreshore access, including a public walkway along the site, which could connect with the existing access ways on neighbouring sites.

The foreshore land to be dedicated to Council for public use also includes a small foreshore park.

There is an existing sea wall running along the site which may require some repair and maintenance work. The Proponent has undertaken to make these repairs.

The Department has specified that these foreshore dedications and sea wall upgrades are not to be offset against monetary contributions for local infrastructure. The Commission supports this position. The Commission is satisfied the proposal will enhance the amenity, connectivity and usability of the public foreshore access ways around Majors Bay.

Developer Contributions

The Commission regrets that the parties have been unable to reach agreement on a Voluntary Planning Agreement.

In the absence of a Voluntary Planning Agreement, Section 94 developer contributions will be levied and payable in accordance with the plan that is in place at the time the future applications are considered.

Precedent

The Commission acknowledges the concern raised by Council and the community about the potential for this development to be used as a precedent for exceedance of the floor space ratio control on other sites. The Commission can only consider the application before it, and

is satisfied that this proposal is suitable for this largely consolidated site requiring investment in remediation, with traffic able to be accommodated on the existing road network.

Commission's Determination

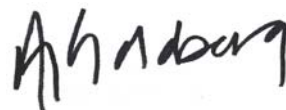
The Commission has carefully considered the proposal in context, and the Director-General's Environmental Assessment Report and recommendations, as well as the submissions made.

The Commission is satisfied that the proposal will provide for the remediation of a consolidated site and it will provide additional housing in a harbour side location undergoing regeneration. Importantly the proposal will provide public open space and public foreshore access (and access connections), with the potential for seawall repairs, in a scenic location.

The Commission has determined to approve the Concept Plan application, subject to the recommended terms of approval and modifications, and prescribed detailed requirements for future development applications on the site.

A stylized handwritten signature in black ink, consisting of a large 'G' followed by a horizontal line.

Garry Payne AM
Member of the Commission

A handwritten signature in black ink, appearing to read 'Abigail Goldberg' in a cursive style.

Abigail Goldberg
Member of the Commission

Appendix 1
List of Speakers

**PLANNING ASSESSMENT COMMISSION MEETING
CONCEPT PLAN FOR RESIDENTIAL DEVELOPMENT AT HILLY ST, MORTLAKE**

Date: 4 pm, Thursday 2 May 2013
Place: The Canada Bay Club, 4 William St Five Dock

Speakers:

1. Canada Bay Council
Mayor Angelo Tsirekas; and
Mr Gary Shiels – GSA Planning
2. Peter Marshall, Chairman Breakfast Point DP270347Mr
3. Mr Paul Tannous
4. Mr Ted Nathan
5. Mr John Clarke, Breakfast Point Resident's Group Inc
6. Mr John Rae
7. Mr Mike Kotek
8. Mr Richard Horwood
9. Mr Michael Gordon, Secretary Rosewood Owner's Corporation
10. Sally Jackson
11. Mr Barry Paterson
12. Mr Rod Jeffrey
13. Mr Terrence Bransdon
14. Mr Ian West
15. Mr Patrick Murray
16. Mr Hermann Valtwies
17. Mr Rob Brennan
18. Ms Therese Boumelhem
19. Mr Giulio Ricci
20. Ms Alexandra O'Mara